



STATE OF MICHIGAN

GRETCHEN WHITMER  
GOVERNOR

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES  
SUZANNE SONNEBORN  
EXECUTIVE DIRECTOR

MARLON I. BROWN, DPA  
ACTING DIRECTOR



Date Mailed: January 5, 2024  
MOAHR Docket No.: 23-008586  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Jeffrey Kemm**

### **HEARING DECISION**

On November 22, 2023, Petitioner, [REDACTED] requested a hearing to dispute a notice of overissuance. Following Petitioner's hearing request, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9, 7 CFR 273.15, and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on January 3, 2024. Petitioner appeared with her spouse, [REDACTED] Respondent, Department of Health and Human Services (Department), had Jason Morris, Overpayment Establishment Analyst, appear as its representative. Neither party had any additional witnesses.

One exhibit was admitted into evidence during the hearing. A 90-page packet of documents provided by the Department was admitted collectively as the Department's Exhibit A.

### **ISSUE**

Did the Department properly determine that Petitioner owes the Department a debt of \$5,845.00 for Food Assistance Program (FAP) benefits that were overissued to her for the months of June 2021 through December 2021?

### **FINDINGS OF FACT**

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Petitioner is a FAP benefit recipient.
2. On February 17, 2021, the Department mailed a notice of case action to Petitioner to notify her that she was approved for a monthly FAP benefit amount

of \$680.00, effective February 1, 2021, for a group size of four. The Department listed the four group members as: Petitioner, [REDACTED] [REDACTED] and [REDACTED]. The only income that the Department budgeted when it determined the FAP benefit amount was unearned income of [REDACTED] per month from unemployment. The Department budgeted a housing expense of \$1,460.00 per month. The Department instructed Petitioner to report all changes in employment and household income to the Department within 10 days of the date of the change.

3. In April 2021, [REDACTED] began working at [REDACTED]. [REDACTED] received the following gross earnings from his employment at [REDACTED]:
  - a. [REDACTED] paid April 21, 2021;
  - b. [REDACTED] paid April 28, 2021;
  - c. [REDACTED] paid May 5, 2021;
  - d. [REDACTED] paid May 12, 2021;
  - e. [REDACTED] paid May 26, 2021;
  - f. [REDACTED] paid June 2, 2021;
  - g. [REDACTED] paid June 9, 2021;
  - h. [REDACTED] paid June 16, 2021;
  - i. [REDACTED] paid June 23, 2021;
  - j. [REDACTED] paid June 30, 2021;
  - k. [REDACTED] paid July 7, 2021;
  - l. [REDACTED] paid July 14, 2021;
  - m. [REDACTED] paid July 21, 2021;
  - n. [REDACTED] paid July 28, 2021;
  - o. [REDACTED] paid August 4, 2021;
  - p. [REDACTED] paid August 11, 2021;
  - q. [REDACTED] paid August 18, 2021;
  - r. [REDACTED] paid August 25, 2021;
  - s. [REDACTED] paid September 1, 2021;

- t. [REDACTED] paid September 8, 2021;
  - u. [REDACTED] paid September 15, 2021;
  - v. [REDACTED] paid September 22, 2021;
  - w. [REDACTED] paid September 29, 2021;
  - x. [REDACTED] paid October 6, 2021;
  - y. [REDACTED] paid October 13, 2021;
  - z. [REDACTED] paid October 20, 2021;
  - aa. [REDACTED] paid October 27, 2021;
  - bb. [REDACTED] paid November 3, 2021;
  - cc. [REDACTED] paid November 10, 2021;
  - dd. [REDACTED] paid November 17, 2021;
  - ee. [REDACTED] paid November 24, 2021;
  - ff. [REDACTED] paid December 1, 2021;
  - gg. [REDACTED] paid December 8, 2021; and
  - hh. [REDACTED] paid December 15, 2021.
4. In June 2021, Petitioner began working at [REDACTED] Petitioner received the following gross earnings from her employment at [REDACTED]  
[REDACTED]
- a. [REDACTED] paid June 15, 2021;
  - b. [REDACTED] paid July 2, 2021;
  - c. [REDACTED] paid July 16, 2021;
  - d. [REDACTED] paid July 23, 2021;
  - e. [REDACTED] paid August 6, 2021;
  - f. [REDACTED] paid August 20, 2021;
  - g. [REDACTED] paid September 3, 2021;
  - h. [REDACTED] paid September 10, 2021;

- i. [REDACTED] paid September 24, 2021;
  - j. [REDACTED] paid October 8, 2021;
  - k. [REDACTED] paid October 22, 2021;
  - l. [REDACTED] paid October 29, 2021; and
  - m. [REDACTED] paid November 29, 2021.
5. Petitioner did not report to the Department when [REDACTED] and Petitioner began their employment. Petitioner first reported their employment to the Department on November 30, 2021.
  6. The Department issued FAP benefits to Petitioner without considering the income that [REDACTED] and Petitioner received from their employment because the Department was unaware of their employment until November 30, 2021. The Department issued the following FAP benefits to Petitioner:
    - a. \$775.00 for June 2021;
    - b. \$760.00 for July 2021;
    - c. \$760.00 for August 2021;
    - d. \$760.00 for September 2021;
    - e. \$930.00 for October 2021;
    - f. \$930.00 for November 2021; and
    - g. \$930.00 for December 2021.
  7. The Department issued Petitioner additional FAP benefit supplements for the months of June 2021 through December 2021, but those supplements were issued as a result of policies put in place due to the COVID-19 pandemic, and those supplements cannot be recouped.
  8. After the Department learned that [REDACTED] and Petitioner had been employed, the Department determined that Petitioner's household had been receiving income from employment that the Department had not been considering.
  9. The Department recalculated Petitioner's FAP benefit amount for the months of June 2021 through December 2021 by adding [REDACTED] and Petitioner's income. The Department did not start [REDACTED] income until June 2021 to allow time for the reporting and processing of the change in income, and the Department did not start Petitioner's income until August 2021 to allow time for the reporting and

processing of the change in income. The Department processed [REDACTED] and Petitioner's income as unreported income, which meant that Petitioner was not eligible for the 20% earned income deduction. The Department also reduced Petitioner's budgeted housing expense from \$1,460.00 per month to \$750.00 per month. The Department determined that Petitioner was not eligible for any FAP benefits with the revised budget for the months of June 2021 through December 2021.

10. The Department determined that Petitioner was overissued a total of \$5,845.00 in FAP benefits for the months of June 2021 through December 2021.
11. On November 8, 2023, the Department issued a notice of overissuance to Petitioner to notify her that she was overissued \$5,845.00 in FAP benefits for the months of June 2021 through December 2021 due to a client error.
12. Petitioner requested a hearing to dispute the notice of overissuance.

### **CONCLUSIONS OF LAW**

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), Department of Health and Human Services Reference Tables Manual (RFT), and Department of Health and Human Services Emergency Relief Manual (ERM).

The Food Assistance Program (FAP) is established by the Food and Nutrition Act of 2008, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 273. The Department administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011.

In this case, the Department determined that it overissued FAP benefits to Petitioner because it did not properly budget Petitioner's household income. When a client receives more benefits than she was entitled to receive, the Department must attempt to recoup the overissuance. BAM 700 (October 1, 2018), p. 1. The overissuance amount is the amount of benefits in excess of the amount the client was eligible to receive. *Id.* at p. 2. Based on the evidence presented, the Department overissued FAP benefits to Petitioner.

For the months of June 2021 through December 2021, the Department issued Petitioner FAP benefits without considering [REDACTED] and Petitioner's earned income. This caused the Department to issue Petitioner more FAP benefits than what she was eligible to receive. The overissuance was due to a client error because Petitioner was required to report any change in household income, and Petitioner did not report to the Department when [REDACTED] and Petitioner began employment. Since the overissuance was due to a client error, Petitioner was not eligible for the 20% earned income deduction. The Department properly determined that Petitioner was overissued a total of \$5,845.00 for the months of June 2021 through December 2021 due to a client error.

Petitioner asserted that she reported when [REDACTED] and Petitioner began employment, but the evidence presented suggested otherwise. There is no record that Petitioner reported when [REDACTED] began employment or when Petitioner began employment. The Department's case comments document activity on client files, and the case comments for Petitioner's case do not show that Petitioner reported when [REDACTED] or Petitioner began employment. Additionally, Petitioner did not present any documents or other evidence to corroborate her testimony that she reported their employment to the Department. Based on the evidence presented, Petitioner did not report to the Department when [REDACTED] and Petitioner began employment. Therefore, the Department properly processed the overissuance as a client error.


It is unclear why the Department reduced Petitioner's housing expense from \$1,460.00 per month to \$750.00 per month. The Department testified that Petitioner's income was the only change in the budget when the overissuance was calculated, but the budgets the Department used to calculate the overissuance clearly show that the housing expense was reduced to \$750.00 per month after it had been \$1,460.00 on the notice of case action that issued on February 17, 2021. This housing expense reduction did not affect the amount of the overissuance. Even if the housing expense would have been budgeted at \$1,460.00, Petitioner still would have been overissued a total of \$5,845.00 for the months of June 2021 through December 2021.

### **DECISION AND ORDER**

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department acted in accordance with its policies and the applicable law when it determined that Petitioner owes the Department a debt of \$5,845.00 for FAP benefits that were overissued to her for the months of June 2021 through December 2021.

IT IS ORDERED that the Department's decision is **AFFIRMED**.

JK/ml



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**Jeffrey Kemm**  
Administrative Law Judge

**NOTICE OF APPEAL:** A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Office of Administrative Hearings and Rules (MOAHR).

A party may request a rehearing or reconsideration of this Order if the request is received by MOAHR within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MOAHR will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MOAHR. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MOAHR Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Office of Administrative Hearings and Rules  
Reconsideration/Rehearing Request  
P.O. Box 30639  
Lansing, Michigan 48909-8139

**Via Electronic Mail:**

**DHHS**  
Amber Gibson  
Ingham County DHHS  
5303 South Cedar  
Lansing, MI 48911  
**MDHHS-Ingham-Hearings@michigan.gov**

**DHHS Department Rep.**  
Overpayment Establishment Section (OES)  
235 S Grand Ave, Ste 811  
Lansing, MI 48909  
**MDHHS-RECOUPMENT-HEARINGS@Michigan.gov**

**Interested Parties**  
BSC2  
M Holden  
B Cabanaw  
N Denson-Sogbaka  
MOAHR

**Via First Class Mail:**

**Petitioner**  
[REDACTED]  
MI [REDACTED]