

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.: Petitioner:

ADMINISTRATIVE LAW JUDGE: Jeffrey Kemm

HEARING DECISION

On November 22, 2023, Petitioner, 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, 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.

<u>ISSUE</u>

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:

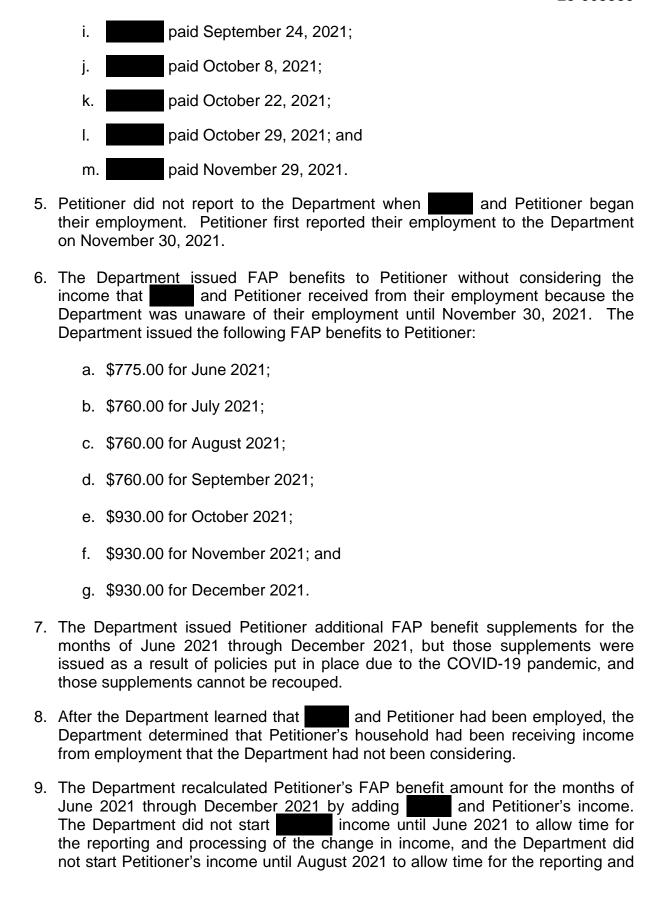
- 1. Petitioner is a FAP benefit recipient.
- 2. On February 17, 2021, the Department mailed a notice of case action to Petitioner to notify her that she was approved for a monthly FAP benefit amount

of \$680.00, effective February 1, 2021, for a group size of four. The Department listed the four group members as: Petitioner, and the only income that the Department budgeted when it determined the FAP benefit amount was unearned income of the 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, began working at gross earnings from his employment at

- a. paid April 21, 2021;
- b. paid April 28, 2021;
- c. paid May 5, 2021;
- d. paid May 12, 2021;
- e. paid May 26, 2021;
- f. paid June 2, 2021;
- g. paid June 9, 2021;
- h. paid June 16, 2021;
- i. paid June 23, 2021;
- j. paid June 30, 2021;
- k. paid July 7, 2021;
- I. paid July 14, 2021;
- m. paid July 21, 2021;
- n. paid July 28, 2021;
- o. paid August 4, 2021;
- p. paid August 11, 2021;
- q. paid August 18, 2021;
- r. paid August 25, 2021;
- s. paid September 1, 2021;

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paid September 8, 2021;
      t.
                  paid September 15, 2021;
      u.
                  paid September 22, 2021;
                  paid September 29, 2021;
      W.
                  paid October 6, 2021;
      X.
                  paid October 13, 2021;
      у.
                  paid October 20, 2021;
      Z.
                  paid October 27, 2021;
      aa.
      bb.
                  paid November 3, 2021;
                  paid November 10, 2021;
      CC.
      dd.
                  paid November 17, 2021;
                    paid November 24, 2021;
      ee.
      ff.
                  paid December 1, 2021;
                  paid December 8, 2021; and
      gg.
      hh.
                    paid December 15, 2021.
4. In June 2021, Petitioner began working at
                                                                         Petitioner
   received the following gross earnings from her employment at
                    paid June 15, 2021;
      a.
      b.
                  paid July 2, 2021;
                    paid July 16, 2021;
      C.
                  paid July 23, 2021;
      d.
                  paid August 6, 2021;
      e.
      f.
                  paid August 20, 2021;
                  paid September 3, 2021;
      h.
                  paid September 10, 2021;
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processing of the change in income. The Department processed 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.

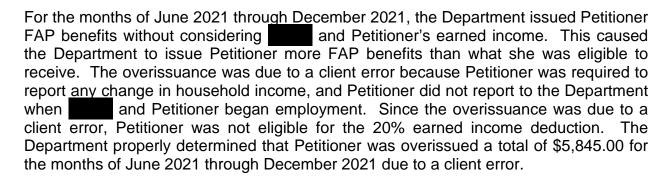
- 10. The Department determined that Petitioner was overissued a total of \$5,845.00 in FAP benefits for the months of June 2021 through December 2021.
- 11.On November 8, 2023, the Department issued a notice of overissuance to Petitioner to notify her that she was overissued \$5,845.00 in FAP benefits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



Petitioner asserted that she reported when and Petitioner began employment, but the evidence presented suggested otherwise. There is no record that Petitioner reported when 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 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 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

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

