



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: November 28, 2023
MOAHR Docket No.: 23-006453
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Jeffrey Kemm

HEARING DECISION

On October 5, 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 November 28, 2023. Petitioner appeared and represented herself. Respondent, Department of Health and Human Services (Department), had Kathleen Zewatsky, Overissuance Establishment Analyst, appear as its representative. Neither party had any additional witnesses.

One exhibit was admitted into evidence during the hearing. A 47-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 \$1,836.00 for Food Assistance Program (FAP) benefits that were overissued to her for the months of October 2021 through January 2022?

FINDINGS OF FACT

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

1. On July 20, 2021, the Department issued a notice of case action to Petitioner to notify her that she was approved for a monthly FAP benefit of \$20.00 effective August 1, 2021, for a group size of two. The notice of case action instructed

Petitioner to report to the Department within 10 days if her monthly income exceeded \$1,868.00.

2. Petitioner was employed by [REDACTED] and Petitioner received the following earnings:
 - a. [REDACTED] on July 9, 2021;
 - b. [REDACTED] on July 23, 2021;
 - c. [REDACTED] on August 6, 2021;
 - d. [REDACTED] on August 20, 2021;
 - e. [REDACTED] on September 13, 2021;
 - f. [REDACTED] on September 17, 2021;
 - g. [REDACTED] on October 1, 2021;
 - h. [REDACTED] on October 15, 2021;
 - i. [REDACTED] on October 29, 2021;
 - j. [REDACTED] on November 12, 2021;
 - k. [REDACTED] on November 26, 2021;
 - l. [REDACTED] on December 10, 2021;
 - m. [REDACTED] on December 23, 2021;
 - n. [REDACTED] on January 7, 2022;
 - o. [REDACTED] on January 21, 2022; and
 - p. [REDACTED] on February 4, 2022.
3. Petitioner reported her employment to the Department, and the Department received a wage match notice, but the Department did not process Petitioner's reported change.
4. The Department continued to issue FAP benefits to Petitioner without considering her earned income.
5. The Department issued Petitioner a FAP benefit of \$20.00 per month for each month from October 2021 through January 2022, and the Department issued Petitioner an additional \$439.00 per month for each month due to a policy put in

place during the COVID-19 pandemic that made Petitioner eligible to receive the maximum FAP benefit for a group size of two.

6. After the Department issued FAP benefits to Petitioner without considering her earned income, the Department updated Petitioner's case and processed the change she reported.
7. The Department recalculated Petitioner's FAP benefit amount based on the earned income that she received, and the Department determined that Petitioner was overissued a total of \$1,836.00 in FAP benefits for the months of October 2021 through January 2022.
8. On August 28, 2023, the Department issued a notice of overissuance to Petitioner to notify her that she was overissued \$1,836.00 in FAP benefits for the months of October 2021 through January 2022 due to an agency error.
9. 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 October 2021 through January 2022, the Department issued Petitioner a FAP benefit of \$20.00 per month plus an additional \$439.00 per month. The Department issued these FAP benefits to Petitioner without properly budgeting Petitioner's income from employment. This caused the Department to issue Petitioner more FAP benefits than what she was eligible to receive. Based on Petitioner's income, Petitioner was not eligible to receive any FAP benefits for each month from October 2021 through January 2022. Thus, Petitioner was overissued a total of \$1,836.00 for the months of October 2021 through January 2022.

Petitioner asserted that she should not be responsible for paying the overissuance because it was not her fault that she was overissued FAP benefits. A FAP overissuance that results from the Department's error must be pursued by the Department when the amount is greater than or equal to \$250.00. BAM 705 (October 1, 2018), p. 1. Although Petitioner received an overissuance due to the Department's error, the Department acted in accordance with its policies when it pursued the overissuance because the amount involved was greater than or equal to \$250.00.

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 \$1,836.00 for FAP benefits that were overissued to her for the months of October 2021 through January 2022.

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

Heather Dennis
Jackson County DHHS
301 E. Louis Glick Hwy.
Jackson, MI 49201

MDHHS-Jackson-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

BSC4
M Holden
D Sweeney
MOAHR

Via First Class Mail:

Petitioner

[REDACTED]
[REDACTED]
[REDACTED] MI [REDACTED]