



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 29, 2023
MOAHR Docket No.: 23-007100
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Jeffrey Kemm

HEARING DECISION

On October 12, 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 Michele Welch, Overpayment Specialist, appear as its representative. Neither party had any additional witnesses.

One exhibit was admitted into evidence during the hearing. A 64-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 \$3,615.00 for Food Assistance Program (FAP) benefits that were overissued to her for the months of January 2022 through May 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 October 23, 2021, Petitioner married [REDACTED]

2. About two weeks after her marriage, Petitioner became ill with COVID-19, and Petitioner was hospitalized for approximately three weeks. Petitioner suffered brain fog after she was released from the hospital.
3. Petitioner did not report to the Department that she married [REDACTED] or that she had a change in the members of her household.
4. [REDACTED] was employed by [REDACTED]
5. From December 2021 through May 2022, the Department issued FAP benefits to Petitioner based on a group size of three that was composed of Petitioner, [REDACTED] and [REDACTED]. The Department issued Petitioner \$723.00 per month.
6. On May 13, 2022, Petitioner reported that she married [REDACTED] on October 23, 2021.
7. The Department reviewed Petitioner's case and determined that it overissued FAP benefits to Petitioner from January 2022 through May 2022 because it did not budget [REDACTED] earned income.
8. [REDACTED] received the following earned income:
 - a. [REDACTED] on January 7, 2022;
 - b. [REDACTED] on January 21, 2022;
 - c. [REDACTED] on January 30, 2022;
 - d. [REDACTED] on February 18, 2022;
 - e. [REDACTED] on March 4, 2022;
 - f. [REDACTED] on March 18, 2022;
 - g. [REDACTED] on April 1, 2022;
 - h. [REDACTED] on April 15, 2022;
 - i. [REDACTED] on April 20, 2022;
 - j. [REDACTED] on May 13, 2022; and
 - k. [REDACTED] on May 27, 2022.
9. The Department recalculated Petitioner's FAP benefit amount by including [REDACTED] as a group member and budgeting his earned income. The

Department determined that Petitioner was overissued a total of \$3,615.00 in FAP benefits for the months of January 2022 through May 2022.

10. On September 7, 2023, the Department issued a notice of overissuance to Petitioner to notify her that she was overissued \$3,615.00 in FAP benefits from January 2022 through May 2022 due to a client error.
11. 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 January 2022 through May 2022, the Department issued Petitioner FAP benefits of \$723.00 each month. The Department issued these FAP benefits to Petitioner without including [REDACTED] as a group member, and without budgeting his earned income. This caused the Department to issue Petitioner more FAP benefits than what she was eligible to receive. Based on Petitioner's total household income, Petitioner was not eligible to receive any FAP benefits for each month from January 2022 through May 2022. Thus, Petitioner was overissued a total of \$3,615.00 for the months of January 2022 through May 2022.

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 \$3,615.00 for FAP benefits that were overissued to her for the months of January 2022 through May 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

Marlena Huddleston
Muskegon County DHHS
2700 Baker Street
Muskegon Heights, MI 49444
MDHHS-Muskegon-Hearing@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

BSC3
M Holden
B Cabanaw
N Denson-Sogbaka
MOAHR

Via First Class Mail:

Petitioner

[REDACTED]
[REDACTED]
MI [REDACTED]