



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: December 21, 2023
MOAHR Docket No.: 23-007816
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

HEARING DECISION

Following Petitioner's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 42 CFR 438.400 to 438.424; 45 CFR 99.1 to 99.33; and 45 CFR 205.10; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on December 19, 2023, from Lansing, Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by Overpayment Establishment Anna Peterson. Department Exhibit 1, pp. 1-86 was received and admitted.

ISSUE

Did the Department properly determine that Petitioner received an overissuance of Food Assistance Program (FAP) benefits due to agency error?

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 was a recipient of FAP benefits.
2. In Petitioner's FAP award notice she was not clearly instructed regarding her simplified reporting requirements.
3. Petitioner had new employment income and an increase in employment income in July 2022 through [REDACTED], that was not reported and not budgeted. (Ex. 1, pp. 66-77)

4. On September 14, 2023, Notice of Overissuance was sent to Petitioner alleging that she received an overissuance of FAP benefits in the amount of \$3,454 from July 1, 2022, through December 31, 2022, because she had an increase in employment income that was not budgeted.
5. On November 8, 2023, Petitioner requested hearing disputing the determination 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) [formerly known as the Food Stamp program] 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 (formerly known as the Department of Human Services) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011.

AGENCY ERROR EXCEPTIONS

FIP, SDA, CDC and FAP

Agency error overissuances are not pursued if the estimated amount is less than \$250 per program. BAM 705 (October 2018)

OVERISSUANCE PROCESSING

FIP, SDA, CDC and FAP

Agency errors (other than CDC **system** errors) are not pursued if the amount is under \$250 per program. BAM 705 (October 2018)

In this case, Petitioner was had an increase in employment income in July 2022 that was not reported and not budgeted, specifically from [REDACTED]. (Ex. 1, pp. 66-77). Petitioner was not informed regarding the simplified reporting amount that she was required to report so the Department characterized the overissuance as agency error. As a result, Petitioner received \$3,454, in FAP benefits from the time period from July 1, 2022, through December 31, 2022, due to agency error. Department policy requires that agency error overissuances be recouped if they are over \$250. BAM 705.


At hearing, Petitioner testified that she was in communication with her worker during the overissuance period and kept her worker informed about the seasonality and fluctuation of her income. Petitioner did not dispute that she received the employment income that the Department attributed to her. Even if Petitioner had informed her worker about her income and the worker failed to request verifications or to update the budgets, that would still be considered agency error and an overissuance would still be pursued because Petitioner was over the income limits for the months during the overissuance period.

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 Department policy when it determined that Petitioner received an overissuance of FAP benefits in the amount of \$3,454 during the time period from July 1, 2022, and December 30, 2022, due to agency error.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.

AM/ml



Aaron McClintic
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
Amy Assante
Charlevoix County DHHS
2229 Summit Park Dr.
Petoskey, MI 49720
MDHHS-CHX-Emmet-Hearings@michigan.gov

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

Via First Class Mail:

Petitioner
[REDACTED]
MI [REDACTED]