



GRETCHEN WHITMER
GOVERNOR

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

MARLON I. BROWN, DPA
ACTING DIRECTOR

[REDACTED], MI [REDACTED]

Date Mailed: December 18, 2023
MOAHR Docket No.: 23-007835
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Danielle R. Harkness

HEARING DECISION

On November 3, 2023, Petitioner, [REDACTED] [REDACTED] requested a hearing to dispute the Department of Health and Human Services' (Department) determination that she received a Food Assistance Program overissuance (OI) that must be recouped. 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 December 14, 2023. Petitioner appeared and represented herself. The Department had Anna Peterson, OI Establishment Analyst, appear as its representative. Neither party had any additional witnesses.

A 145-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 \$1,245.00 for Food Assistance Program (FAP) benefits that were overissued to her from March 1, 2023, through May 31, 2023?

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 [REDACTED] [REDACTED] 2022, Petitioner applied to receive FAP benefits from the Department.
2. On January 5, 2023, the Department issued a notice of case action to Petitioner to notify her that she was approved for a monthly FAP benefit of \$358.00 from

December 5, 2022, through December 31, 2022; and \$363.00 from January 1, 2023, until November 30, 2023, for a group size of two. The notice of case action instructed Petitioner to report to the Department within 10 days any changes to her income.

3. On January 7, 2023, the Department issued a notice of case action to Petitioner to notify her that she was approved for a monthly FAP benefit of \$437.00 effective February 1, 2023, for a group size of two. The notice of case action instructed Petitioner to report to the Department within 10 days any changes to her income.

4. Petitioner was employed by [REDACTED] [REDACTED] [REDACTED] [REDACTED] and received the following earnings:

- a. \$ [REDACTED] on January 6, 2023;
- b. \$ [REDACTED] on January 13, 2023;
- c. \$ [REDACTED] on January 20, 2023;
- d. \$ [REDACTED] on January 27, 2023;
- e. \$ [REDACTED] on February 3, 2023;
- f. \$ [REDACTED] on February 10, 2023;
- g. \$ [REDACTED] on February 17, 2023;
- h. \$ [REDACTED] on February 24, 2023;
- i. \$ [REDACTED] on March 3, 2023;
- j. \$ [REDACTED] on March 10, 2023;
- k. \$ [REDACTED] on March 17, 2023;
- l. \$ [REDACTED] on March 24, 2023;
- m. \$ [REDACTED] on March 31, 2023;
- n. \$ [REDACTED] on April 7, 2023;
- o. \$ [REDACTED] on April 14, 2023;
- p. \$ [REDACTED] on April 21, 2023;
- q. \$ [REDACTED] on April 28, 2023;
- r. \$ [REDACTED] on May 5, 2023;

- s. \$ [REDACTED] on May 19, 2023; and
 - t. \$ [REDACTED] on May 26, 2023.
5. Petitioner did not timely report her income from [REDACTED] [REDACTED] [REDACTED] [REDACTED]
 6. The Department continued to issue FAP benefits to Petitioner without considering her earned income.
 7. The Department did not take timely action on Petitioner's newly reported income resulting in an agency error from April 1, 2023, to May 31, 2023.
 8. The Department recalculated Petitioner's FAP benefit amount based on the earned income that she received and determined that Petitioner was overissued FAP benefits.
 9. On August 28, 2023, the Department issued a notice of OI to Petitioner to notify her that she was overissued \$415.00 in FAP benefits for the months of March 1, 2023, through March 31, 2023, due to a client error; and \$830.00 in FAP benefits for the months of April 1, 2023, through May 31, 2023, due to an agency error.
 10. Petitioner requested a hearing to dispute the Department's proposed action to recoup a \$1,245.00 FAP OI from her.

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 Petitioner received FAP OIs in the amount of \$415.00 due to a client error, and \$830.00 due to an agency error, for a total OI amount of \$1,245.00. When a client receives more benefits than she was entitled to receive, the Department must attempt to recoup the OI. BAM 700 (October 1, 2018), p. 1. The OI 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 March 1, 2023, through May 31, 2023, the Department issued Petitioner a monthly FAP benefit of \$438.00 due to both client and agency errors. Based

on Petitioner's countable monthly income, Petitioner was only eligible to receive \$23.00 in FAP benefits per month. Thus, Petitioner was overissued a total of \$1,245.00 from March 1, 2023, through May 31, 2023.

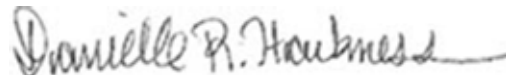
Petitioner did not dispute that she was overissued FAP benefits from March 1, 2023, through March 31, 2023. However, Petitioner asserted that she should not be responsible for paying the overissuance from April 1, 2023, through May 31, 2023, because it was not her fault that she was overissued FAP benefits. 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, in part, 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 \$1,245.00 for FAP benefits that were overissued to her for the months of March 1, 2023, through May 31, 2023.

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

DH/nr



Danielle R. Harkness
Administrative Law Judge
for Elizabeth Hertel, Director
Department of Health and Human Services

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
Christina Chamberlain
Cheboygan County DHHS
827 S Huron St.
Cheboygan, MI 49721
**MDHHS-Cheboygan-
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
Cheboygan County DHHS
MDHHS Recoupment
N. Stebbins
MOAHR

Via-First Class Mail :

Petitioner
[REDACTED]
[REDACTED]
[REDACTED], MI [REDACTED]