



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.: 23-008145
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Jeffrey Kemm

HEARING DECISION

On November 13, 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 December 20, 2023. Petitioner appeared and represented herself. Respondent, Department of Health and Human Services (Department), had Annette Fullerton, Overpayment Establishment Analyst, appear as its representative. Neither party had any additional witnesses.

One exhibit was admitted into evidence during the hearing. A 113-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 \$3,072.00 for Food Assistance Program (FAP) benefits that were overissued to her for the months of December 2022, March 2023, April 2023, May 2023, and June 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. Petitioner is a FAP benefit recipient.
2. Petitioner is employed at a school, and she only works during the school year.

3. On August 11, 2022, the Department mailed Petitioner a notice of case action to notify Petitioner that she was approved for a monthly FAP benefit amount of \$658.00, effective September 1, 2022, for a group size of three. The Department instructed Petitioner to report all changes in household income to the Department within 10 days of the date of the change.
4. Petitioner returned to work after the school summer break, and Petitioner received her first paycheck on October 7, 2022. Petitioner did not report to the Department that she returned to work because she previously informed the Department that she would be returning to work after the school summer break.
5. The Department continued to issue FAP benefits to Petitioner without considering Petitioner's income from employment after Petitioner returned to work.
6. Petitioner received the following earnings from her employment:
 - a. [REDACTED] paid October 7, 2022;
 - b. [REDACTED] paid October 21, 2022;
 - c. [REDACTED] paid November 4, 2022;
 - d. [REDACTED] paid November 18, 2022;
 - e. [REDACTED] paid December 2, 2022;
 - f. [REDACTED] paid December 16, 2022;
 - g. [REDACTED] paid December 30, 2022;
 - h. [REDACTED] paid January 13, 2023;
 - i. [REDACTED] paid January 27, 2023;
 - j. [REDACTED] paid February 10, 2023;
 - k. [REDACTED] paid February 24, 2023;
 - l. [REDACTED] paid March 10, 2023;
 - m. [REDACTED] paid March 24, 2023;
 - n. [REDACTED] paid April 7, 2023;
 - o. [REDACTED] paid April 21, 2023;
 - p. [REDACTED] paid May 5, 2023;

- q. [REDACTED] paid May 19, 2023;
 - r. [REDACTED] paid June 2, 2023;
 - s. [REDACTED] paid June 16, 2023; and
 - t. [REDACTED] paid June 30, 2023.
7. The Department issued Petitioner \$835.00 per month in FAP benefits for the months of December 2022 through February 2023, and the Department issued Petitioner \$740.00 per month in FAP benefits for the months of March 2023 through June 2023.
8. The Department subsequently discovered that Petitioner had been receiving income from employment that the Department had not been considering.
9. The Department recalculated Petitioner's FAP benefit amount for the months of December 2022 through June 2023 by adding Petitioner's income. The Department processed Petitioner's income as unreported income, which meant that Petitioner was not eligible for the 20% earned income deduction. The Department determined that Petitioner was only eligible for the following FAP benefits with her unreported earned income budgeted:
- a. \$0.00 for December 2022;
 - b. \$835.00 for January 2023;
 - c. \$835.00 for February 2023;
 - d. \$105.00 for March 2023;
 - e. \$446.00 for April 2023;
 - f. \$172.00 for May 2023; and
 - g. \$0.00 for June 2023.
10. The Department determined that Petitioner was overissued a total of \$3,072.00 in FAP benefits for the months of December 2022, March 2023, April 2023, May 2023, and June 2023.
11. On October 25, 2023, the Department issued a notice of overissuance to Petitioner to notify her that she was overissued \$3,072.00 in FAP benefits for the months of December 2022, March 2023, April 2023, May 2023, and June 2023 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.

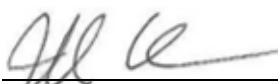
For the months of December 2022 through June 2023, the Department issued Petitioner FAP benefits without considering Petitioner's earned income. This caused the Department to issue Petitioner more FAP benefits than what she was eligible to receive. The overissuance was due to a client error because Petitioner was required to report any change in household income, and Petitioner did not report to the Department when she returned to work after the school summer break in 2022. Since the overissuance was due to a client error, Petitioner was not eligible for the 20% earned income deduction. The Department properly determined that Petitioner was overissued a total of \$3,072.00 for the months of December 2022, March 2023, April 2023, May 2023, and June 2023 due to a client error.

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 \$3,072.00 for FAP benefits that were overissued to her for the months of December 2022, March 2023, April 2023, May 2023, and June 2023.

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
Marci Walker
Clinton County DHHS
105 W. Tolles Drive
St. Johns, MI 48879
MDHHS-Clinton-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
[REDACTED]
MI [REDACTED]