



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

[REDACTED]  
MI

Date Mailed: January 4, 2024  
MOAHR Docket No.: 23-008296  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Jeffrey Kemm**

### **HEARING DECISION**

On November 22, 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 January 3, 2024. Petitioner's spouse, [REDACTED] appeared on Petitioner's behalf. Respondent, Department of Health and Human Services (Department), had Eugene Brown, Overissuance Establishment Analyst, appear as its representative. Neither party had any additional witnesses.

One exhibit was admitted into evidence during the hearing. A 97-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 \$509.00 for Food Assistance Program (FAP) benefits that were overissued to her for the month of May 2020?

### **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 April 2, 2020, Petitioner applied for FAP benefits from the Department. In Petitioner's application, Petitioner reported that Petitioner, [REDACTED] [REDACTED] and [REDACTED] all receive Social Security income. Petitioner reported a total monthly

household income of [REDACTED] Petitioner also reported a monthly housing expense of \$576.00.

2. The Department did not properly budget the income that Petitioner reported on her application for FAP benefits.
3. On April 7, 2020, the Department issued a notice of case action to Petitioner to notify her that she was approved for a FAP benefit of \$86.00 per month effective May 1, 2020. The notice stated that the Department budgeted [REDACTED] as Petitioner's monthly household income, and the Department budgeted \$575.40 as Petitioner's monthly housing expense.
4. The Department issued Petitioner \$86.00 in FAP benefits for the month of May 2020, plus an additional \$423.00 due to a policy put in place as a result of the COVID-19 pandemic.
5. In May 2020, Petitioner's household income was [REDACTED]. This was composed of [REDACTED] in Social Security RSDI that was paid to Petitioner, [REDACTED] in Social Security RSDI that was paid to [REDACTED], \$168.00 in Social Security RSDI that was paid to [REDACTED] and [REDACTED] in Social Security SSI that was paid to [REDACTED].
6. The Department updated Petitioner's case and corrected the budgeted income to [REDACTED] per month. The Department also reduced the housing expense from \$575.40 to \$412.16. These changes caused Petitioner to be ineligible for FAP benefits.
7. The Department determined that Petitioner was overissued \$509.00 in FAP benefits for the month of May 2020.
8. On November 2, 2023, the Department issued a notice of overissuance to Petitioner to notify her that she was overissued \$509.00 in FAP benefits for the month of May 2020 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 did not overissue FAP benefits to Petitioner.

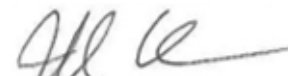
The Department determined that Petitioner received an overissuance for the month of May 2020 because the Department did not properly budget Petitioner's household income. The Department updated Petitioner's case and corrected the budgeted income to [REDACTED] per month. However, the Department also reduced Petitioner's housing expense from \$575.40 per month to \$412.16 per month. If the Department would have only updated Petitioner's income, then Petitioner would have been eligible for a FAP benefit of \$15.00 for May 2020, and Petitioner would not have received an overissuance because Petitioner would have received an additional \$494.00 due to a policy put in place as a result of the COVID-19 pandemic. The Department did not provide any explanation about the reduced housing expense, and there was no evidence presented to support a reduced housing expense. Thus, based on the evidence presented, the Department did not properly budget Petitioner's housing expense when it determined there was an overissuance. Therefore, Petitioner did not receive an overissuance of FAP benefits for the month of May 2020.

### **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 did not act in accordance with its policies and the applicable law when it determined that Petitioner owes the Department a debt of \$509.00 for FAP benefits that were overissued to her for the month of May 2020.

IT IS ORDERED that the Department's decision is **REVERSED**. The Department shall cancel the overissuance for the month of May 2020. The Department shall begin to implement this decision within 10 days of the date of mailing of this decision and order.

JK/ml



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**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**  
Melissa Erdman  
Huron County DHHS  
1911 Sand Beach Road  
Bad Axe, MI 48413  
**MDHHS-Huron-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**  
BSC2  
M Holden  
B Cabanaw  
N Denson-Sogbaka  
MOAHR

**Via First Class Mail:**

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