



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  
DIRECTOR

[REDACTED], MI [REDACTED]

Date Mailed: March 21, 2024  
MOAHR Docket No.: 24-001654  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Danielle R. Harkness**

### **HEARING DECISION**

On February 8, 2024, Petitioner, [REDACTED] [REDACTED] requested a hearing to dispute a Food Assistance Program (FAP) benefit overissuance. Following Petitioner's hearing request, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9, 7 CFR 273.15, 45 CFR 205.10, and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on March 20, 2024. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Dawn McKay, Recoupment Specialist.

A 43-page packet of documents provided by the Department was admitted collectively as the Department's Exhibit A.

### **ISSUES**

Did the Department properly determine that Petitioner owes the Department a debt of \$2,439.00 for FAP benefits that were overissued to her from April 1, 2021, through September 30, 2021, due to a client error?

Did the Department properly determine that Petitioner owes the Department a debt of \$459.00 for FAP benefits that were overissued to her from October 1, 2021, through October 31, 2021, due to an 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. On [REDACTED] [REDACTED] 2020, Petitioner applied for FAP benefits.

2. On December 15, 2020, the Department mailed a Notice of Case Action to Petitioner to notify her that she was approved for a FAP benefit of \$133.00 per month from December 1, 2020, through November 30, 2021. The notice instructed Petitioner that she must report any changes in employment or income to the Department within 10 days.
3. From April 1, 2021, through June 30, 2021, Petitioner received a monthly COVID-19 supplement of \$278.00 resulting in Petitioner receiving a total monthly FAP benefit of \$411.00 (\$133.00 + \$278.00).
4. From July 1, 2021, through September 30, 2021, Petitioner received \$189.00 in FAP benefits. Petitioner also received monthly COVID-19 supplements of \$241.00 and \$28.00. The \$28.00 supplement is not recoupable. Therefore, this amount was subtracted from Petitioner's FAP benefit amount resulting in Petitioner receiving a total monthly FAP benefit of \$402.00 (\$189.00 - \$28.00 + \$241.00)
5. From April 2021 through September 2021, Petitioner received the following gross wages from her employment at [REDACTED] [REDACTED] [REDACTED]
  - a. \$ [REDACTED] in April 2021
  - b. \$ [REDACTED] in May 2021
  - c. \$ [REDACTED] in June 2021
  - d. \$ [REDACTED] in July 2021
  - e. \$ [REDACTED] in August 2021
  - f. \$ [REDACTED] in September 2021
6. The Department was unaware of Petitioner's income, so the Department continued to issue FAP benefits to Petitioner without considering her income.
7. The Department issued Petitioner \$441.00 per month in FAP benefits from April 1, 2021, through June 30, 2021, and \$402.00 in FAP benefits from July 1, 2021, through September 30, 2021.
8. After reviewing Petitioner's FAP case, the Department became aware of Petitioner's income that was not being considered when issuing Petitioner's FAP benefits from April 1, 2021, through September 30, 2021.
9. The Department recalculated Petitioner's FAP benefit amount from April 1, 2021, through September 30, 2021, by budgeting Petitioner's income. The Department determined that Petitioner was not eligible for any FAP benefits from April 1, 2021, through September 30, 2021.

10. The Department determined that Petitioner was overissued \$2,439.00 in FAP benefits from April 1, 2021, through September 30, 2021, due to client error.
11. On August 8, 2021, the Department became aware of Petitioner's earnings from her employment at [REDACTED] [REDACTED] [REDACTED] via a wage match report.
12. The Department failed to consider Petitioner's earnings when issuing Petitioner's October 2021 FAP benefits.
13. The Department issued Petitioner \$459.00 in FAP benefits from October 1, 2021, through October 31, 2021.
14. On January 23, 2024, the Department notified Petitioner of the overissuance.
15. On February 8, 2024, Petitioner requested a hearing to dispute the 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 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 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. When an overpayment of more than \$250.00 occurs, the Department must pursue recoupment, regardless of whether fault lies with the Agency or by client error. *Id.* at p. 5. 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.

From April 1, 2021, through September 30, 2021, Petitioner was issued \$2,439.00 in FAP benefits. The Department issued these FAP benefits to Petitioner without properly budgeting Petitioner's income. This caused the Department to issue Petitioner more FAP benefits than she was eligible to receive. The overissuance was due to Petitioner's error because Petitioner did not report her income in a timely manner. Based on Petitioner's income, Petitioner was not eligible for any FAP benefits from April 1, 2021, through September 30, 2021. Thus, Petitioner was overissued \$2,439.00 in FAP benefits from April 1, 2021, through September 30, 2021.

From October 1, 2021, through October 31, 2021, Petitioner was issued \$459.00 in FAP benefits. The Department became aware of Petitioner's October 2021, income but did not consider it before issuing October FAP benefits to Petitioner. The Department presented sufficient evidence to establish that the total amount overissued was \$459.00, in October 2021, and Petitioner did not present any evidence to rebut the Department's evidence. Therefore, I must find that the Department properly determined that Petitioner owes the Department a debt of \$459.00 for FAP benefits issued to her from October 1, 2021, through October 31, 2021.

At the hearing, Petitioner disputed the Department's calculation of her gross income for April through September 2021. Petitioner indicated that she has paycheck stubs to dispute this. Petitioner was advised to submit the paycheck stubs for April through September 2021 to the Department. The department representative indicated that when Petitioner's paycheck stubs are received, Petitioner's gross income amounts for April through September 2021 will be reviewed.

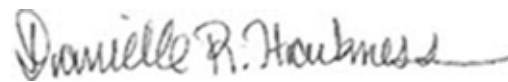
In this case, the Department properly instructed Petitioner of the requirements to report changes in her income and no evidence was presented to show that the Department's actions were improper.

#### **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 \$2,439.00 for FAP benefits that were overissued to her from April 1, 2021, through September 30, 2021, and \$459.00 for FAP benefits that were overissued to her from October 1, 2021, through October 31, 2021.

Accordingly, the Department's decision is AFFIRMED.

DH/nr



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**Danielle R. Harkness**  
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**  
Jamie Dent  
Grand Traverse/Leelanau County  
701 S. Elmwood Suite 19  
Traverse City, MI 49684  
**MDHHS-GrandTraverse-  
Hearings@michigan.gov**

**Interested Parties**  
Grand Traverse County DHHS  
MDHHS Recoupment  
N. Stebbins  
MOAHR

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