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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]
[REDACTED]
[REDACTED] MI [REDACTED]

Date Mailed: June 12, 2024
MOAHR Docket No.: 24-005425
Agency No.: [REDACTED]
[REDACTED]

ADMINISTRATIVE LAW JUDGE: Danielle R. Harkness

HEARING DECISION

On April 9, 2024, Petitioner, [REDACTED] requested a hearing to dispute an 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 June 11, 2024. Petitioner appeared and represented herself. Petitioner’s husband, [REDACTED], appeared as a witness for Petitioner. Respondent, Department of Health and Human Services (Department) had Julie Luczak, Overpayment Establishment Analyst, appear as its representative.

A 66-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 \$4,590.00 for Food Assistance Program (FAP) benefits that were overissued to Petitioner from December 1, 2021, through September 30, 2022?

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] 2021, Petitioner applied for FAP benefits. Exhibit A, pp. 23-28.
2. On October 28, 2021, an interview was completed with Petitioner wherein Petitioner reported owning property in [REDACTED] MI that she was not residing in. *Id.* p. 30.
3. Petitioner owns property at [REDACTED] MI [REDACTED] which is not her principal place of residence. This property was obtained on [REDACTED] 2021,

with a State Equalized Value (SEV) of \$32,200.00 in 2021, and \$39,600.00 in 2022. *Id.* pp. 16-17.

4. On October 28, 2021, the Department mailed a notice of case action to Petitioner to notify Petitioner that Petitioner was approved for a FAP benefit of \$74.00 from October 18, 2021, through October 31, 2021, and \$164.00 per month from November 1, 2021, through September 30, 2022. *Id.* pp. 32-38. The notice instructed Petitioner to report to the Department any changes within 10 days. *Id.* p. 36.
5. The Department continued to issue FAP benefits to Petitioner without considering all of Petitioner's assets.
6. From December 1, 2021, through March 31, 2022, Petitioner received a monthly COVID-19 supplement of \$295.00 resulting in Petitioner receiving a total monthly FAP benefit of \$459.00 (\$164.00 + \$295.00). *Id.* p. 13.
7. From April 1, 2022, through September 30, 2022, Petitioner received a COVID-19 supplement of \$321.00 resulting in Petitioner receiving a total monthly FAP benefit of \$459.00 (\$138.00 + \$321.00). *Id.* pp. 14-15.
8. The Department subsequently discovered that Petitioner's assets were not properly being considered while issuing Petitioner's FAP benefits from December 1, 2021, through September 30, 2022.
9. The Department recalculated Petitioner's FAP benefit amount for December 1, 2021, through September 30, 2022, by budgeting Petitioner's assets. The Department determined that Petitioner was not eligible for any FAP benefits from December 1, 2021, through September 30, 2022. *Id.* p. 8.
10. The Department determined that Petitioner was overissued \$4,590.00 in FAP benefits from December 1, 2021, through September 30, 2022. *Id.*
11. On March 29, 2024, the Department notified Petitioner of the overissuance. *Id.* pp. 7-12.
12. On April 9, 2024, Petitioner requested a hearing to dispute the overissuance. *Id.* pp. 4-5.

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 consider Petitioner's assets. When a client receives more benefits than the client 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.

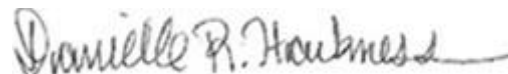
In this case, Petitioner received \$4,590.00 in FAP benefits from December 1, 2021, through September 30, 2022. Exhibit A, pp. 13-15. The Department issued these FAP benefits to Petitioner without properly budgeting Petitioner's assets. This caused the Department to issue Petitioner more FAP benefits than Petitioner was eligible to receive. The overissuance was due to the Department's error because the Department was aware of Petitioner's assets but did not properly consider Petitioner's assets before issuing FAP benefits from December 1, 2021, through September 30, 2022. Based on Petitioner's assets, Petitioner was not eligible for any FAP benefits from December 1, 2021, through September 30, 2022. *Id.* p. 8. Thus, Petitioner was overissued \$4,590.00 in FAP benefits from December 1, 2021, through September 30, 2022. *Id.*

Although the overissuance was due to the Department's error, the Department was required to pursue it. 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. 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 \$4,590.00 for FAP benefits that were overissued to Petitioner from December 1, 2021, through September 30, 2022.

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



Danielle R. Harkness
Administrative Law Judge

DH/pt

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

