



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ORLENE HAWKS
DIRECTOR

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Date Mailed: May 23, 2022
MOAHR Docket No.: 22-001757
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Jeffrey Kemm

HEARING DECISION

On April 20, 2022, Petitioner, ██████████, 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 May 19, 2022. Petitioner appeared and represented herself. Respondent, Department of Health and Human Services (Department), had Eugene Brown, Recoupment Specialist, appear as its representative. Neither party had any additional witnesses.

One exhibit was admitted into evidence during the hearing. An 88-page packet of documents provided by the Department was admitted collectively as the Department's Exhibit A.

ISSUE

Whether the Department properly determined that Petitioner owes the Department a debt of \$1,879.00 for Food Assistance Program (FAP) benefits that were overissued to her from February 2021 through June 2021?

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 June 29, 2020, Petitioner was let go from her employment at ██████████.
2. On June 29, 2020, Petitioner applied for FAP benefits from the Department.
3. When Petitioner applied for FAP benefits from the Department, Petitioner notified the Department that she had been let go from her employment at ██████████.

4. The Department approved Petitioner's application for FAP benefits, and the Department began issuing FAP benefits to Petitioner in July 2020.
5. On November 18, 2020, the Department mailed a wage match client notice to Petitioner. The notice advised Petitioner that she had unreported employment at Garden of Dreams, and the notice instructed Petitioner to have [REDACTED] complete a form and return it to the Department by December 18, 2020.
6. Petitioner did not receive the wage match client notice, so she did not have [REDACTED] complete it and return it to the Department.
7. The Department did not receive the completed form by December 18, 2020.
8. The Department did not take any action when it did not receive the completed form by December 18, 2020, and the Department continued to issue FAP benefits to Petitioner.
9. The Department issued Petitioner \$1,879.00 in FAP benefits (plus Federal COVID-19 supplements) from February 2021 through June 2021.
10. The Department subsequently reviewed Petitioner's case and determined that it should have closed her FAP benefits when the Department did not receive the completed form by December 18, 2020. The Department determined that Petitioner was not entitled to the FAP benefits that the Department continued to issue to her.
11. On April 5, 2022, the Department mailed a notice of overissuance to Petitioner to notify her that she was overissued \$1,879.00 in FAP benefits from February 2021 through June 2021.
12. On April 20, 2022, 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 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. 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 2.

Based on the evidence presented, the Department did not overissue FAP benefits to Petitioner. The Department alleged that it overissued FAP benefits to Petitioner because the Department continued to issue FAP benefits to Petitioner after it should have closed her FAP benefits because it did not receive a completed wage match form by December 18, 2020. The Department's allegation is premised on the fact that the Department properly issued the wage match form, but the Department did not properly issue the wage match form.

The Department did not have any reason to issue the wage match form to Petitioner. Petitioner disclosed that she had been employed by [REDACTED] when she applied for FAP benefits on June 29, 2020, and Petitioner did not work for [REDACTED] after she applied for FAP benefits. Thus, Petitioner's employment at [REDACTED] was properly reported to the Department, and Petitioner was not employed by [REDACTED] while she was receiving FAP benefits from the Department. Since Petitioner was not employed by [REDACTED] while she was receiving FAP benefits, Petitioner did not have any income from [REDACTED] that could have affected her FAP benefits.

Since the Department did not properly issue the wage match form to Petitioner, Petitioner's failure to return the completed form to the Department was not cause for the Department to close her FAP benefits. Thus, the Department did not fail to properly close Petitioner's FAP case, and the Department did not continue to issue FAP benefits to Petitioner after it should have closed her FAP benefits. Therefore, the Department did not overissue FAP benefits to Petitioner.

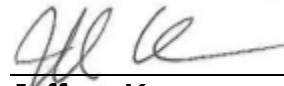
DECISION AND ORDER

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 properly determine that Petitioner owes the Department a debt of \$1,879.00 for Food Assistance Program benefits that were overissued to her from February 2021 through June 2021.

IT IS ORDERED that the Department's decision is **REVERSED**. Petitioner was not overissued FAP benefits from February 2021 through June 2021.

The Department shall begin to implement this decision within 10 days.

JK/mp



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

Email Recipients:

MDHHS-Recoupment-Hearings
MDHHS-Calhoun-Hearings
D. Sweeney
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First-Class Mail Recipient:

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