



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
MI [REDACTED]

Date Mailed: November 17, 2022
MOAHR Docket No.: 22-004527
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Carmen G. Fahie

HEARING DECISION

Following Petitioner's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 42 CFR 438.400 to 438.424; 45 CFR 99.1 to 99.33; and 45 CFR 205.10; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on November 9, 2022. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by Jody Anderson, Recoupment Specialist.

ISSUE

Did the Department properly determine that the Petitioner received an overissuance of Food Assistance Program (FAP) benefits that the Department is entitled to recoup?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. The Petitioner was a recipient of FAP benefits. Department Exhibit 1, pgs. 15-16.
2. The Petitioner reported the sale of her home in July 2021 with the lump sum payment deposit in her account on September 6, 2021, and the balance in her account was over the \$15,000 asset limit for FAP for the month of October 2021. Department Exhibit 1, pg. 60.
3. The Department failed to follow up with the lump sum payment deposit that made the Petitioner over the \$15,000 asset limit for FAP per BEM 400. Department Exhibit 1, pg. 74.
4. The Department determined that the Petitioner received a FAP overissuance in the amount of \$2,754 during the time period of December 1, 2021, through May 31, 2022, due to Agency error. Department Exhibit 1, pgs. 17-73.

5. The overissuance was due to Department error.
6. On September 26, 2022, the Department sent the Petitioner a notice of the overissuance and a repayment agreement. Department Exhibit 1, pgs. 9-14.
7. On September 29, 2022, the Department received a hearing request from the Petitioner, contesting the Department's negative action.

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) [formerly known as the Food Stamp program] 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 (formerly known as the Department of Human Services) 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 Petitioner was a recipient of FAP benefits. Department Exhibit 1, pgs. 15-16. The Petitioner reported the sale of her home in July 2021 with the lump sum payment deposit in her account on September 6, 2021, and the balance in her account was over the \$15,000 asset limit for FAP for the month of October 2021. Department Exhibit 1, pg. 60. The Department failed to follow up with the lump sum payment deposit that made the Petitioner over the \$15,000 asset limit for FAP per BEM 400. Department Exhibit 1, pg. 74.

The Department determined that the Petitioner received a FAP overissuance in the amount of \$2,754 during the time period of December 1, 2021, through May 31, 2022, due to Agency error. Department Exhibit 1, pgs. 17-73. The overissuance was due to Department error. On September 26, 2022, the Department sent the Petitioner a notice of the overissuance and a repayment agreement. Department Exhibit 1, pgs. 9-14. On September 29, 2022, the Department received a hearing request from the Petitioner, contesting the Department's negative action. BAM 105, 220, 700, 705, and 725. BEM 400.

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 Department policy when it determined that the Petitioner received an overissuance of FAP benefits in the amount of \$2,754 for the contested time period of December 1, 2021, through May 31, 2022, that the Department is required to recoup.

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

CF/cc



Carmen G. Fahie
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 :

Interested Parties

MDHHS-GR8North-Hearings
MDHHS-Recoupment-Hearings
D. Sweeney
M. Holden
MOAHR

Via-First Class Mail :

Petitioner

[REDACTED]
[REDACTED] MI [REDACTED]