



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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████████████████████, MI ██████████

Date Mailed: February 27, 2023  
MOAHR Docket No.: 23-000227  
Agency No.: ██████████  
Petitioner: ██████████ ██████████

**ADMINISTRATIVE LAW JUDGE:** Aaron McClintic

**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 February 14, 2023, from Lansing, Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by Recoupment Specialist Annette Fullerton. Department Exhibit 1, pp. 1-127 was received and admitted.

**ISSUE**

Did the Department properly determine that Petitioner received an overissuance of FAP benefits due to 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. Petitioner was a recipient of FAP benefits.
2. Petitioner was working at ██████████ ██████████ ██████████ while she was receiving FAP benefits and the income from that job was not budgeted. (Ex. 1, pp. 61-63)
3. On October 3, 2022, Notice of Overissuance was sent to Petitioner alleging that she received an overissuance of FAP benefits in the amount of \$1,527 from September 1, 2019, through June 30, 2020 because employment income was not budgeted.
4. On January 10, 2023, Petitioner requested hearing disputing the determination 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) [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.

### **AGENCY ERROR EXCEPTIONS**

#### **FIP, SDA, CDC and FAP**

Agency error overissuances are not pursued if the estimated amount is less than \$250 per program. BAM 705 (October 2018)

### **OVERISSUAN CE PROCESSING**

#### **FIP, SDA, CDC and FAP**

Agency errors (other than CDC **system** errors) are not pursued if the amount is under \$250 per program. BAM 705 (October 2018)

In this case, Petitioner had employment income from [REDACTED] [REDACTED] [REDACTED] that she reported but was not budgeted. (Ex. 1, pp. 61-63) As a result, Petitioner received \$1,527, from the time period from September 1, 2019, through June 30, 2020, due to agency error. Department policy requires that agency error overissuances be recouped if they are over \$250. BAM

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 Petitioner received an overissuance of FAP benefits in the amount of \$1,527 during the time period from September 1, 2019, and June 30, 2020, due to agency error.

In addition, Petitioner's hearing request could have been dismissed as being untimely because she did not request a hearing within 90 days of receiving the Notice of Overissuance. BAM 600

**DECISION AND ORDER**

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

AM/nr

  
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Aaron McClintic  
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

