



GRETCHEN WHITMER
GOVERNOR

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

MARLON BROWN
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED] MI [REDACTED]

Date Mailed: December 23, 2024
MOAHR Docket No.: 24-012981
Agency No.: [REDACTED]
Petitioner: [REDACTED]

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 December 18, 2024, from Lansing, Michigan. The Petitioner was represented by his mother [REDACTED]. Petitioner also appeared along with his father [REDACTED]. The Department of Health and Human Services (Department) was represented by Alison Peck Overpayment Establishment Analyst. Department Exhibit 1, pp. 1-113 was received and admitted.

ISSUE

Did the Department properly determine that Petitioner received an overissuance of Food Assistance Program (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 had social security income that was not budgeted due to Department error. (Ex. 1, pp. 91-92)
3. On November 22, 2024, Notice of Overissuance was sent to Petitioner alleging that he received an overissuance of FAP benefits in the amount of \$2,414 from March 1, 2024, through November 30, 2024, because social security income was not budgeted correctly.
4. On November 25, 2024, 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)

OVERISSUANCE 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)

COMPROMISED CLAIMS

FAP Only

MDHHS can compromise (reduce or eliminate) an overissuance if it is determined that a household's economic circumstances are such that the overissuance cannot be paid within three years. A request for a policy exception must be made from the RS to the Overpayment, Research and Verification Section office outlining the facts of the situation and the client's financial hardship. The manager of the MDHHS Overpayment, Research and Verification Section has final authorization on the determination for all compromised claims. Send to: Overpayment Recovery and State Psychiatric Hospital Reimbursement Division Overpayment Research and Verification Section Suite 1011 235 S. Grand Ave P.O. Box 30037, BAM 725

In this case, Petitioner received social security income that was not budgeted correctly. (Ex. 1, pp. 66-77) The Department had the correct information about Petitioner's social security income so the Department characterized the overissuance as agency error. As a result, Petitioner received \$2,414, in FAP benefit from the time period from March 1,

2024, through November 30, 2024, due to agency error. Department policy requires that agency error overissuances be recouped if they are over \$250. BAM 705.

At hearing, Petitioner questioned why he should be responsible for the overissuance when it resulted from Department error. It was explained that overissuances above \$250 must be recouped even if they resulted from agency error.


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 \$2,414 during the time period from March 1, 2014, and November 30, 2024, due to agency error.

There was some discussion at hearing about Petitioner's lack of income and his inability to repay the overissuance. Policy allows for a request for policy exception to compromise an overissuance. BAM 725. If Petitioner pursues that avenue it would be separate for this hearing request and would need to follow the instructions and requirements in BAM 725.

DECISION AND ORDER

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

AM/ml



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

Via Electronic Mail:

Agency Representative

Alison Peck
Overpayment Establishment Section (OES)
235 S Grand Ave, Ste 811
Lansing, MI 48909
MDHHS-RECOUPMENT-HEARINGS@Michigan.gov

DHHS

Kimberly Kornoelje
Kent County DHHS
121 Martin Luther King Jr St SE
Ste 200
Grand Rapids, MI 49507
MDHHS-Kent-Hearings@michigan.gov

Interested Parties

BSC4
M. Holden
B Cabanaw
N Denson-Sogbaka
MOAHR

Via First Class Mail:

Petitioner

[REDACTED]
[REDACTED]
[REDACTED] MI [REDACTED]

Authorized Hearing Rep.

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

Authorized Hearing Rep.

[REDACTED]
[REDACTED]
[REDACTED] MI [REDACTED]