



GRETCHEN WHITMER
GOVERNOR

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

MARLON BROWN
DIRECTOR

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[REDACTED]
[REDACTED] MI [REDACTED]

Date Mailed: June 3, 2024
MOAHR Docket No.: 24-004680
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Julia Norton

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 May 28, 2024. Petitioner was present and self-represented. The Department of Health and Human Services (Department) was represented by Anna Peterson, Overpayment Establishment Analyst; Nicola Chapman, Eligibility Specialist; and Alicia Kirk, Assistance Payment Manager.

ISSUE

Did the Department properly determine that Petitioner was issued a Food Assistance Program (FAP) benefit overpayment 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. Petitioner was an ongoing recipient of FAP benefits.
2. In January 2012, Petitioner reported to the Department a one-time medical expense of \$21,069.00 related to a hospital stay. Exhibit A, p. 68.
3. The Department determined Petitioner was eligible for a medical expense deduction of \$21,069.00 and applied this deduction to her FAP budget.
4. The Department continued to apply a \$21,069.00 medical expense deduction to Petitioner's FAP budget through June 30, 2019.
5. On June 26, 2019, the Department referred the case to the Overpayment Establishment Section, and it was assigned claim number [REDACTED].

6. On April 8, 2024, the Department sent Petitioner a Notice of Overissuance indicating that Petitioner received a total overpayment of \$2,077.00 for the period of July 1, 2018 to June 30, 2019 as a result of agency error. Exhibit A, pp. 9-14.
7. On April 17, 2024, the Department received Petitioner's request for hearing disputing the Department's action to establish and recover the overpayment. Exhibit A, pp. 3-4.

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, Petitioner disputes the Department's determination that Petitioner received an overpayment (OP) of FAP benefits in the amount of \$2,077.00 due to an agency error.

When a client group receives more benefits than they are entitled to receive, the Department must attempt to recoup the OP. 7 CFR 273.18(a)(2); BAM 700 (October 2018), p. 1-2. Agency error OPs are caused by incorrect actions by the Department, including delays or no action, which result in the client receiving more benefits than they were entitled to receive. BAM 705 (October 2018), p. 1; 7 CFR 273.18(b). In an agency error OP, the OP period begins the first month when benefit issuance exceeds the amount allowed by policy, or 12 months before the date the overissuance was referred to the recoupment specialist, whichever 12-month period is later. BAM 705 (October 2018), p. 5. The amount of the OP is the benefit amount the group actually received minus the amount the group was eligible to receive. BAM 715 (October 2017), p. 6; BAM 705 (October 2015), p. 6.

Here, Petitioner reported the one-time medical expense of \$21,069.00 to the Department in 2011. The Department testified that the medical expense should have been budgeted as a one-time expense or averaged over the benefit period (either 12 or 24 months). BEM 554 (August 2017) p. 9. The Department continued to include the \$21,069.00 as a monthly ongoing medical expense deduction to the FAP budget through June 30, 2019. The case was referred to the Overpayment Establishment Section on June 26, 2019.

Based on a June 2019 referral, the Department properly considered the period of 12 months prior to the referral and limited the OP period of July 1, 2018 to June 30, 2019.

To establish the OP amounts, the Department presented a benefit summary inquiry and OP budgets for each of the months in the OP period. The benefit summary inquiry established that the Department issued \$4,233.00 in FAP benefits to Petitioner during the OP period. Exhibit A, pp. 17-18. The budgets established that Petitioner's household would have been eligible for \$2,156.00 in FAP benefits for the OP period had the medical expense not been included in the calculation of the household's FAP eligibility. Exhibit A, pp. 20-43. The Department testified the only items changed in each month's budget were the removal of the \$21,069.00 medical expense and any figures affected by this removal. Regarding any other eligible medical expenses, Department policy provides that FAP groups with one or more senior, disabled, or veteran (SDV) members are entitled to a medical expense deduction for medical expenses incurred by the SDV member that exceed \$35. BEM 554, p. 1. Petitioner, a senior, acknowledged that there were no other reported medical expenses during the period of July 1, 2018 to June 30, 2019. Therefore, the Department properly removed the entire medical expense deduction in each of the FAP OP monthly budgets.


The Department established that during the OP period it issued \$4,233.00 in FAP benefits and Petitioner was only eligible to receive \$2,156.00 in FAP benefits. This resulted in an OP of \$2,077.00 between July 1, 2018 and June 30, 2019.

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 was issued an OP of FAP benefits totaling \$2,077.00.

DECISION AND ORDER

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

JN/cc



Julia Norton

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-Wayne-31-Grandmont-Hearings
MDHHS-Recoupment-Hearings
BSC4-HearingDecisions
N. Denson-Sogbaka
B. Cabanaw
M. Holden
MOAHR

Via-First Class Mail :

Petitioner

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