



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
SUZANNE SONNEBORN
EXECUTIVE DIRECTOR

MARLON I. BROWN, DPA
DIRECTOR

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

Date Mailed: September 9, 2024
MOAHR Docket No.: 24-008877
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Danielle R. Harkness

HEARING DECISION

On August 6, 2024, Petitioner, [REDACTED], requested a hearing to dispute a Food Assistance Program (FAP) benefit overpayment. Following Petitioner’s hearing request, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9, 7 CFR 273.15, 45 CFR 205.10, and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on September 3, 2024. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Krysenda Slayton, Overpayment Establishment Analyst.

An 85-page packet of documents provided by the Department was admitted collectively as the Department’s Exhibit A.

ISSUE

Did the Department properly determine that Petitioner owes the Department a debt of \$3,158.00 for FAP benefits that were overpaid to Petitioner from October 1, 2019, through November 30, 2019; and from February 1, 2020, through July 31, 2020, due to a client 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. On [REDACTED] 2019, Petitioner applied for FAP benefits. Exhibit A, pp. 61-67.
2. On Petitioner’s [REDACTED] 2019, application, Petitioner reported working at [REDACTED] an average of 40 hours per week and receiving \$ [REDACTED] biweekly. Petitioner reported no other income. *Id.*
3. From [REDACTED] 2019, through [REDACTED], 2019, Petitioner received unearned income of \$ [REDACTED] per week from [REDACTED] *Id.* pp. 19-22.
4. During Petitioner’s November 5, 2019, interview with the Department, Petitioner reported that she was on maternity leave and had no income. *Id.* pp. 68-69.

5. On November 5, 2019, the Department mailed a Notice of Case Action to Petitioner to notify Petitioner that Petitioner was approved for a FAP benefit of \$ [REDACTED] from October 30, 2019, through October 31, 2019, and \$ [REDACTED] from November 1, 2019, through November 30, 2019. The notice instructed Petitioner that Petitioner must report any changes in employment or income to the Department within 10 days. *Id.* pp. 72-76.
6. On November 15, 2019, the Department mailed a Notice of Case Action to Petitioner to notify Petitioner that Petitioner was approved for a FAP benefit of \$ [REDACTED] per month from December 1, 2019, through September 30, 2020. The notice instructed Petitioner that Petitioner must report any changes in employment or income to the Department within 10 days. *Id.* pp. 24-28.
7. Petitioner did not report returning to work at [REDACTED] following the expiration of Petitioner's maternity leave.
8. From [REDACTED] 2019, through [REDACTED] 2020, Petitioner received the following in earned income from Petitioner's employment:
 - a. \$ [REDACTED] on [REDACTED] 2019,
 - b. \$ [REDACTED] on [REDACTED], 2019,
 - c. \$ [REDACTED] on [REDACTED], 2020,
 - d. \$ [REDACTED] on [REDACTED], 2020,
 - e. \$ [REDACTED] on [REDACTED] 2020,
 - f. \$ [REDACTED] on [REDACTED] 2020,
 - g. \$ [REDACTED] on [REDACTED] 2020,
 - h. \$ [REDACTED] on [REDACTED], 2020,
 - i. \$ [REDACTED] on [REDACTED], 2020,
 - j. \$ [REDACTED] on [REDACTED], 2020,
 - k. \$ [REDACTED] on [REDACTED], 2020,
 - l. \$ [REDACTED] on [REDACTED], 2020,
 - m. \$ [REDACTED] on [REDACTED], 2020,
 - n. \$ [REDACTED] on [REDACTED] 2020, and
 - o. \$ [REDACTED] on [REDACTED], 2020.

Id. pp. 19-34.

9. The Department was unaware of Petitioner's income from October 3, 2019, through July 23, 2020, so the Department continued to issue FAP benefits to Petitioner without considering Petitioner's income.
10. From October 30, 2019, through October 31, 2019, Petitioner received a FAP benefit of \$[REDACTED]. *Id.* p. 8.
11. From November 1, 2019, through November 30, 2019; and from February 1, 2020, through July 31, 2020, Petitioner received FAP benefits of \$[REDACTED] per month. *Id.*
12. On November 27, 2019, the Department received a Verification of Employment from Petitioner and became aware of Petitioner's income that was not being considered when issuing Petitioner FAP benefits from October 30, 2019, through October 31, 2019; November 1, 2019, through November 30, 2019; and from February 1, 2020, through July 31, 2020, *Id.* pp. 36-40.
13. The Department recalculated Petitioner's FAP benefit amount from October 30, 2019, through October 31, 2019; November 1, 2019, through November 30, 2019; and from February 1, 2020, through July 31, 2020, by budgeting Petitioner's income. The Department determined that Petitioner was eligible for \$0.00 in FAP benefits from October 1, 2019, through October 31, 2019; \$[REDACTED]0 in FAP benefits from November 1, 2019, through November 30, 2019; and \$0.00 from February 1, 2020, through July 31, 2020. *Id.* p. 8.
14. The Department determined that Petitioner was overpaid \$3,158.00 in FAP benefits from October 1, 2019, through October 31, 2019; November 1, 2019, through November 30, 2019; and from February 1, 2020, through July 31, 2020, due to a client error *Id.* pp. 73-78.
15. On July 23, 2024, the Department notified Petitioner of the overpayment. *Id.* pp. 7-12.
16. On August 6, 2024, Petitioner requested a hearing to dispute the overpayment. *Id.* pp. 4-5.

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 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 overpaid FAP benefits to Petitioner because it did not properly budget Petitioner's income. When a client receives more benefits than the client 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 p. 2. Based on the evidence presented, the Department overpaid FAP benefits to Petitioner.

From October 1, 2019, through November 30, 2019; and from February 1, 2020, through July 31, 2020, Petitioner was issued \$3,158.00 in FAP benefits. *Id.* pp. 7-12.

In October 2019, Petitioner received \$[REDACTED] in FAP benefits. The Department alleged that Petitioner failed to report Petitioner's earned income of \$[REDACTED] from [REDACTED] in [REDACTED] 2019. However, Petitioner reported that she worked an average of 40 hours per week and received earned income from this employer of \$[REDACTED] on a biweekly basis. *Id.* p. 65. At the hearing, the Department was unable to present sufficient evidence to show that Petitioner failed to properly report her October 2019 earned income from Petitioner's employer. Further, the Department failed to present sufficient evidence to show that the overpayment amount for October 2019 should include Petitioner's October 2019 earned income.

However, the Department presented sufficient evidence to show that Petitioner failed to timely report the unearned income of \$[REDACTED] received from [REDACTED] in [REDACTED] 2019. Therefore, the Department properly determined that the [REDACTED] 2019 overpayment should include Petitioner's unearned income of [REDACTED].

From November 1, 2019, through November 30, 2019; and from February 1, 2020, through July 31, 2020, the Department issued FAP benefits to Petitioner without properly budgeting Petitioner's income. This caused the Department to issue Petitioner more FAP benefits than Petitioner was eligible to receive. The overpayment was due to Petitioner's error because Petitioner did not timely report her income after returning to work following Petitioner's maternity leave. Based on Petitioner's income, Petitioner was eligible for \$437.00 in FAP benefits from November 1, 2019, through November 30, 2019; and \$0.00 in FAP benefits from February 1, 2020, through July 31, 2020. Thus, Petitioner was overissued \$3,126.00 in FAP benefits from November 1, 2019, through November 30, 2019; and from February 1, 2020, through July 31, 2020, due to a client error.

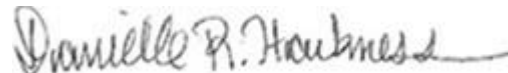
Petitioner asserted that she reported the dates of her maternity leave to the department, however, no evidence was presented to show that Petitioner timely reported her income after returning to work following the expiration of her maternity leave.

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 its policies and the applicable law when it determined that Petitioner owes the Department a debt of \$3,126.00 in FAP benefits from November 1, 2019, through November 30, 2019; and from February 1, 2020, through July 31, 2020, due to a client error. However, the Department failed to properly determine the amount of the overpayment from October 1, 2019, through October 31, 2019, that was due to an agency error.

IT IS ORDERED that the Department's decision is **AFFIRMED IN PART** with respect to the Department's determination that Petitioner received an overpayment of \$3,126.00 in FAP benefits from November 1, 2019, through November 30, 2019; and from February 1, 2020, through July 31, 2020, due to a client error; and **REVERSED IN PART** with respect to the overpayment amount from October 1, 2019, through October 31, 2019. The Department shall redetermine the overpayment amount consistent with this decision. The Department shall begin to implement this decision within 10 days of the date of mailing of this decision and order.

DH/pt



Danielle R. Harkness
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:

DHHS

Jeffrey Cook
Lenawee County DHHS
1040 South Winter Street
Adrian, MI 49221

MDHHS-Lenawee-Hearings@michigan.gov

DHHS Department Rep.

Overpayment Establishment Section (OES)
235 S Grand Ave Ste 811
Lansing, MI 48909

MDHHS-RECOUPMENT-HEARINGS@Michigan.gov

Interested Parties

Lenawee County DHHS
MDHHS Recoupment
MOAHR

Via-First Class Mail:

Petitioner

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██████████, MI ██████████