



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

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Date Mailed: September 19, 2024
MOAHR Docket No.: 24-009520
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Danielle R. Harkness

HEARING DECISION

On August 8, 2024, Petitioner, ██████████, 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 18, 2024. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Jennifer Braxmaier, Overpayment Establishment Analyst.

A 109-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 \$1,924.00 for FAP benefits that were overpaid to Petitioner from November 1, 2020, through March 31, 2021, due to an 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. On ██████████ 2020, Petitioner applied for FAP benefits and reported a household size of 3.
2. On April 27, 2020, the Department mailed a notice of case action to Petitioner to notify Petitioner that Petitioner was approved for a FAP benefit of \$172.00 from April 14, 2020, through April 30, 2020, and \$355.00 per month from May 1, 2020, through March 31, 2021, based on a household size of 2 because Petitioner's daughter was determined to be an ineligible student for FAP purposes.

3. On September 25, 2020, the Department mailed a notice of case action to Petitioner to notify Petitioner that Petitioner was approved for a FAP benefit of \$229.00 per month from November 1, 2020, through March 31, 2021, based on a household size of 2.
4. On September 28, 2020, the Department mailed a new hire notice to Petitioner to verify Petitioner's daughter's employment. The Department stated that Petitioner must return a completed new hire notice to the Department by October 8, 2020, or Petitioner's FAP benefits would be closed.
5. On October 12, 2020, the Department became aware via a new hire hit that Petitioner's daughter was employed for at least an average of [REDACTED] hours per week at [REDACTED] and received earned income from this employment. Therefore, Petitioner's daughter was determined to be an eligible student.
6. On October 19, 2020, the Department mailed a new hire notice to Petitioner to verify Petitioner's daughter's employment. The Department stated that Petitioner must return the completed new hire client notice by October 29, 2020, or Petitioner's FAP benefits would be closed.
7. The September 28, 2020, and October 19, 2020, new hire notices were not returned by the deadline and the Department failed to close Petitioner's FAP benefit case.
8. On December 23, 2020, the Department mailed a notice of case action to Petitioner to notify Petitioner that Petitioner was approved for a FAP benefit of \$374.00 per month from January 1, 2021, through March 31, 2021, based on a household size of 2.
9. On January 23, 2021, the Department mailed a notice of case action to Petitioner to notify Petitioner that Petitioner was approved for a FAP benefit of \$401.00 per month from February 1, 2021, through March 31, 2021, based on a household size of 2.
10. Petitioner's daughter received the following in gross income from her employment at [REDACTED]:
 - a. \$ [REDACTED] in [REDACTED] 2020,
 - b. \$ [REDACTED] in [REDACTED] 2020,
 - c. \$ [REDACTED] in [REDACTED] 2021,
 - d. \$ [REDACTED] in [REDACTED] 2021, and
 - e. \$ [REDACTED] in [REDACTED] 2021.

11. The Department failed to consider Petitioner's daughter's earned income when issuing Petitioner FAP benefits from November 1, 2020, through March 31, 2021.
12. From November 1, 2020, through December 31, 2020, Petitioner received a COVID-19 supplement of \$145.00 resulting in Petitioner receiving a total monthly FAP benefit of \$374.00 (\$145.00 + \$229.00).
13. From January 1, 2021, through January 31, 2021, Petitioner received \$374.00 in FAP benefits and from February 1, 2021, through March 31, 2021, Petitioner received \$401.00 in FAP benefits.
14. The Department issued Petitioner \$1,924.00 in FAP benefits from November 1, 2020, through March 31, 2021.
15. On July 29, 2024, the Department notified Petitioner of the overpayment.
16. On August 8, 2024, Petitioner requested a hearing to dispute the overpayment.

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.

A full-time student is ineligible for FAP benefits unless the student meets one of the following criteria: receiving Family Independence Program (FIP) assistance; enrolled as a result of a Job Training Partnership Act (JTPA) program; enrolled as a result of a program under Section 236 of the Trade Readjustment Act of 1974; enrolled in a FAE&T or FAE&T plus and either part of a career and technical education program as defined under the Perkins Strengthening Career and Technical Education Act and a course of study that will lead to employment or the student is limited to remedial courses, basic adult education, literacy, or English as a second language; participating in an employment and training program for low-income households operated by state and local government where one or more components of such program is at least equivalent to an acceptable FAP employment and training program component such as a program under the Carl D. Perkins Career and Technical Education Improvement Act of 2006; participating in another state or local government employment and training program; physically or mentally unfit for employment; employed for at least an average of 20 hours per week and paid for such employment; self-employed for at least an

average of 20 hours per week and earning an average weekly income at least equivalent to the federal minimum wage multiplied by 20; participating in an on-the-job training program; participating in a state or federally funded work study program; providing more than half of the physical care of a group member under the age of six, or providing more than half of the physical care of a group member age six through eleven if the local office has determined that adequate child care is unavailable to enable the student to participate in work or work study. BEM 245 (July 1, 2023), pp. 4-6.

In this case, the Department determined that it overpaid FAP benefits to Petitioner because it did not properly consider Petitioner's daughter's eligible student status and her earned income. At the time of Petitioner's April 14, 2020, application, Petitioner's daughter did not meet any of the criteria above to be considered an eligible student for FAP purposes. However, on October 12, 2020, the Department became aware that Petitioner's daughter was ■ years old, enrolled half-time or more in college, and was employed for at least 20 hours per week in paid employment thereby making her an eligible student for FAP purposes. The Department failed to add Petitioner's daughter to Petitioner's group despite Petitioner's daughter's eligibility.

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. When an overpayment of more than \$250.00 occurs, the Department must pursue recoupment, regardless of whether fault lies with the Agency or by client error. *Id.* at p. 5. 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 November 1, 2020, through March 31, 2021, Petitioner was overpaid \$1,924.00 in FAP benefits. The Department issued these FAP benefits to Petitioner without properly considering Petitioner's daughter's eligible student status and her earned income. This caused the Department to issue Petitioner more FAP benefits than Petitioner was eligible to receive. The overpayment was due to an agency error because the agency failed to consider Petitioner's daughter's eligible student status and her income before issuing FAP benefits to Petitioner from November 1, 2020, through March 31, 2021.

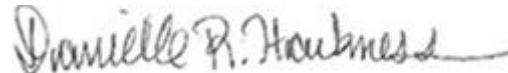
Based on Petitioner's group's income, Petitioner was eligible for \$0.00 in FAP benefits from November 1, 2020, through March 31, 2021.

The Department presented sufficient evidence to establish that the total amount overpaid was \$1,924.00, from November 1, 2020, through March 31, 2021, and Petitioner did not present any evidence to rebut the Department's evidence. Therefore, I must find that the Department properly determined that Petitioner owes the Department a debt of \$1,924.00 for FAP benefits issued to Petitioner from November 1, 2020, through March 31, 2021.

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 \$1,924.00 for FAP benefits that were overpaid to Petitioner from November 1, 2020, through March 31, 2021.

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



Danielle R. Harkness
Administrative Law Judge

DH/pt

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

Janice Collins
Genesee County DHHS Union St District Office
125 E. Union St 7th Floor
Flint, MI 48502

MDHHS-Genesee-UnionSt-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

Genesee County DHHS
MDHHS Recoupment
MOAHR

Via-First Class Mail:

Petitioner

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