



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: October 10, 2024
MOAHR Docket No.: 24-010281
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Danielle R. Harkness

HEARING DECISION

On September 13, 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 October 9, 2024. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Kathleen Zewatsky, Overpayment Establishment Analyst.

A 72-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 \$374.00 for FAP benefits that were overpaid to Petitioner from December 1, 2020, through December 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 ██████████ 2020, Petitioner applied for FAP benefits.
2. On May 14, 2020, the Department mailed a Notice of Case Action to Petitioner to notify Petitioner that Petitioner was approved for \$112.00 in FAP benefits from May 14, 2020, and May 31, 2020, and \$355.00 per month in FAP benefits from June 1, 2020, through April 30, 2021. The notice further advised Petitioner to report any changes in income to the Department within 10 days.
3. On June 30, 2021, the Department received a wage match and became aware of Petitioner's group member's unreported income.

4. On or around [REDACTED] 2024, Petitioner's group member's income was verified by an Earnings Request that was submitted from Petitioner's group member's employer, [REDACTED].
5. From December 1, 2020, through December 31, 2020, Petitioner's group member received \$2,588.23 in wages from his employment at Woodland Polymers.
6. The Department failed to consider Petitioner's group member's earnings when issuing Petitioner FAP benefits from December 1, 2020, through December 31, 2020.
7. The Department issued Petitioner \$374.00 in FAP benefits when Petitioner was not eligible for any FAP benefits from December 1, 2020, through December 31, 2020.
8. On August 26, 2024, the Department notified Petitioner of the overpayment.
9. On September 13, 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.

In this case, the Department determined that it overpaid FAP benefits to Petitioner because Petitioner did not timely report Petitioner's group member's income from [REDACTED]. 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 December 1, 2020, through December 31, 2020, Petitioner was issued \$374.00 in FAP benefits when Petitioner was not eligible for any FAP benefits. The Department issued these FAP benefits to Petitioner without properly budgeting Petitioner's group's income. This caused the Department to issue Petitioner more FAP benefits than Petitioner was eligible to receive. The overpayment was due to a client error because

Petitioner did not timely report Petitioner's group member's income from [REDACTED]. Based on Petitioner's group's income, Petitioner was eligible for \$0.00 in FAP benefits from December 1, 2020, through December 31, 2020. Thus, Petitioner was overpaid \$374.00 in FAP benefits from December 1, 2020, through December 31, 2020.

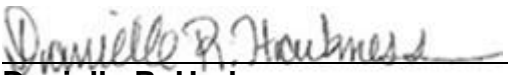
Here, the Department presented sufficient evidence to establish that the total amount overpaid was \$374.00 from December 1, 2020, through December 31, 2020, and Petitioner did not present any evidence to rebut the Department's evidence. Therefore, I must find that the Department properly determined that Petitioner owes the Department a debt of \$374.00 for FAP benefits issued to Petitioner from December 1, 2020, through December 31, 2020.

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 \$374.00 for FAP benefits that were overpaid to Petitioner from December 1, 2020, through December 31, 2020.

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

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

Renee Olian
Kalamazoo County DHHS
427 E Alcott St
Kalamazoo, MI 49001

MDHHS-Kalamazoo-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

Kalamazoo County DHHS
MDHHS Recoupment
MOAHR

Via-First Class Mail:

Petitioner

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