



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 28, 2024
MOAHR Docket No.: 24-011104
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Danielle R. Harkness

HEARING DECISION

On September 26, 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 24, 2024. Petitioner appeared and represented himself. ██████████ appeared as a witness for Petitioner. The Department of Health and Human Services (Department) was represented by Catrice Legacy, Departmental Analyst.

A 43-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 \$1,179.00 for FAP benefits that were overpaid to Petitioner from August 1, 2022, through October 31, 2022, 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 ██████████, 2021, Petitioner submitted a redetermination.
2. On July 14, 2021, the Department mailed a notice of case action to Petitioner to notify Petitioner that Petitioner was approved for a FAP benefit of \$67.00 per month from August 1, 2021, through July 31, 2023, based on a household size of 2. The notice instructed Petitioner that Petitioner must report any changes to the Department within 10 days.
3. On ██████████ 2022, Petitioner submitted a mid-certification contact notice (Mid-Certification) wherein Petitioner reported that Petitioner's son was no longer residing in Petitioner's home.

4. The Department failed to timely update Petitioner's FAP group composition after receiving Petitioner's [REDACTED] 2022, Mid-Certification.
5. On [REDACTED], 2022, Petitioner entered a [REDACTED] (LTC) facility and was discharged on [REDACTED], 2023.
6. Petitioner did not timely report to the Department that Petitioner entered a [REDACTED] facility.
7. On September 30, 2022, the Department received notification that Petitioner had entered the [REDACTED] facility.
8. After receiving the September 30, 2022, notification, the Department became aware of their error in not timely updating Petitioner's FAP group composition after receiving the [REDACTED] 2022, Mid-Certification.
9. The Department failed to consider Petitioner's updated FAP group composition, and that Petitioner was residing at an [REDACTED] facility from June 28, 2022, through September 19, 2023, when issuing Petitioner FAP benefits from August 1, 2022, through October 31, 2022.
10. The Department issued Petitioner \$1,179.00 in FAP benefits from August 1, 2022, through October 31, 2022.
11. On September 11, 2024, the Department notified Petitioner of the overpayment.
12. On September 26, 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 it did not properly consider Petitioner's updated group composition and living arrangement. 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 August 1, 2022, through October 31, 2022, Petitioner was overpaid \$1,179.00 in FAP benefits. The Department issued these FAP benefits to Petitioner without properly considering Petitioner's updated FAP group composition and Petitioner's change in living arrangements. This caused the Department to issue Petitioner more FAP benefits than Petitioner was eligible to receive. Due to both a client error and an agency error occurring from August 1, 2022, through October 31, 2022, the agency error takes precedence. Therefore, the overpayment in this matter was due to an agency error because the agency failed to timely update Petitioner's FAP group composition after receiving Petitioner's [REDACTED] 2022, Mid-Certification.

Based on Petitioner's group composition and change in living arrangements, Petitioner was eligible for \$0.00 in FAP benefits from August 1, 2022, through October 31, 2022.

In this case, Petitioner indicated that due to the state that Petitioner was in when Petitioner entered the LTC facility, Petitioner was unable to timely report the change in Petitioner's living arrangements to the Department. However, because there was also a Department error during the time period relevant to this matter, the Department's error in not timely updating Petitioner's FAP group composition takes precedence.

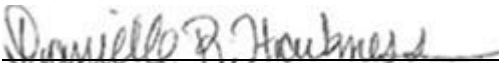
Here, the Department presented sufficient evidence to establish that the total amount overpaid was \$1,179.00, from August 1, 2022, through October 31, 2022, and Petitioner did not present any evidence to rebut the Department's evidence. Therefore, I must find that the Department properly determined that Petitioner owes the Department a debt of \$1,179.00 for FAP benefits issued to Petitioner from August 1, 2022, through October 31, 2022.

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 \$1,179.00 for FAP benefits that were overpaid to Petitioner August 1, 2022, through October 31, 2022.

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:

Agency Representative

Catrice Legacy
Overpayment Establishment Section (OES)
235 S Grand Ave Ste 811
Lansing, MI 48933
MDHHS-Recoupment-Hearings@michigan.gov

DHHS

Rose Ward
Newaygo County DHHS
1018 Newell
PO Box 640
White Cloud, MI 49349
MDHHS-Newaygo-Hearings@michigan.gov

Interested Parties

BSC3
M Holden
B Cabanaw
N Denson-Sogbaka
MOAHR

Via-First Class Mail:

Petitioner

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