



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: November 13, 2024
MOAHR Docket No.: 24-011726
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Danielle R. Harkness

HEARING DECISION

On September 23, 2024, Petitioner's Authorized Hearing Representative (AHR), ██████████ 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 November 12, 2024. Petitioner's AHR appeared at the hearing on Petitioner's behalf. The Department of Health and Human Services (Department) was represented by Catrice Legacy, Departmental Analyst.

A 42-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 \$2,510.00 for FAP benefits that were overissued to Petitioner from November 1, 2023, through August 31, 2024, 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 Michigan Combined Application Project (MiCAP) redetermination.
2. On August 2, 2021, the Department mailed a notice of case action to Petitioner to notify Petitioner that Petitioner was approved for a FAP benefit of \$185.00 per month from September 1, 2021, through August 31, 2024.

3. On [REDACTED] 2023, Petitioner began receiving Retirement, Survivors, Disability Insurance (RSDI) income.
4. On [REDACTED] 2024, Petitioner submitted a MiCAP redetermination.
5. When Petitioner submitted the [REDACTED] 2024, MiCAP redetermination, the department became aware of a system error that resulted in the monthly Social Security Administration (SSA) data exchange failing to interface. Therefore, Petitioner's receipt of RSDI income was not considered prior to the issuance of FAP benefits to Petitioner from November 1, 2023, through August 31, 2024.
6. On August 6, 2024, the Department mailed a notice of case action to Petitioner to notify Petitioner that Petitioner's FAP benefits would close effective September 1, 2024. The August 6, 2024, notice indicated, "Your case was closed because you receive RSDI and reduced SSI. MiCAP is an SSI only income program – BEM 618. You will be sent a closure letter and an 1171 Assistance Application to apply for Food Assistance in your local county or online at: MI Bridges (michigan.gov)."
7. From November 1, 2023, through March 31, 2024, Petitioner received \$ [REDACTED] per month in FAP benefits, and from April 1, 2024, through August 31, 2024, Petitioner received \$ [REDACTED] per month in FAP benefits.
8. The Department failed to consider that Petitioner began receiving RSDI income on [REDACTED] 2023, before issuing FAP benefits to Petitioner from November 1, 2023, through August 31, 2024.
9. The Department issued Petitioner \$ [REDACTED] in FAP benefits from November 1, 2023, through August 31, 2024.
10. On August 20, 2024, the Department notified Petitioner of the overpayment.
11. On September 23, 2024, Petitioner's AHR 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 consider Petitioner's receipt of RSDI 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. 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, 2023, through August 31, 2024, Petitioner was issued \$ [REDACTED] in FAP benefits. The Department issued these FAP benefits to Petitioner without properly considering Petitioner's receipt of RSDI 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 as the monthly SSA data exchange failed to interface with the department's system resulting in the Department failing to consider Petitioner's receipt of RSDI income before issuing Petitioner FAP benefits. Because Petitioner began receiving RSDI income on [REDACTED] 2023, Petitioner became ineligible for FAP benefits through MiCAP from November 1, 2023, through August 31, 2024.

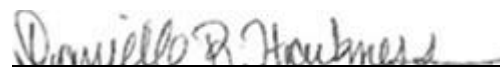
The Department presented sufficient evidence to establish that the total amount overissued was \$ [REDACTED], from November 1, 2023, through August 31, 2024, and Petitioner's AHR did not present any evidence to rebut the Department's evidence. Therefore, I must find that the Department properly determined that Petitioner owes the Department a debt of \$ [REDACTED] for FAP benefits issued to Petitioner from November 1, 2023, through August 31, 2024.

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 \$ [REDACTED] for FAP benefits that were overissued to Petitioner from November 1, 2023, through August 31, 2024.

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
Nicolette Vanhavel
235 S Grand Ave Ste 1403
Lansing, MI 48933
MDHHS-MiCAP-Hearings@michigan.gov

Interested Parties
BSC2
M Holden
B Cabanaw
N Denson-Sogbaka
MOAHR

Via-First Class Mail:

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

Authorized Hearing Rep.
[REDACTED]
[REDACTED]
[REDACTED] MI [REDACTED]