



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

MARLON I. BROWN, DPA
DIRECTOR

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Date Mailed: December 12, 2024
MOAHR Docket No.: 24-012625
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Jeffrey Kemm

HEARING DECISION

On ██████████ 2024, Petitioner ██████████ requested a hearing to dispute a Notice of Overissuance. As a result, a hearing was scheduled to be held on December 10, 2024. Public assistance hearings are held pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 42 CFR 438.400 to 438.424; 45 CFR 99.1 to 99.33; 45 CFR 205.10; and Mich Admin Code, R 792.11002.

The parties appeared for the scheduled hearing. Petitioner appeared and represented herself. Petitioner used a sign language interpreter to participate in the hearing. Petitioner’s daughter, ██████████, appeared with Petitioner. Respondent Michigan Department of Health and Human Services (Department) had Overpayment Establishment Analyst Krysenda Slayton appear as its representative. Neither party had any additional witnesses.

Sworn testimony was provided by both parties, and one exhibit was admitted into evidence. A 65-page packet of documents provided by the Department was admitted collectively as Exhibit A.

ISSUE

Did the Department properly determine that Petitioner owes the Department a debt of \$██████████ for Food Assistance Program (FAP) benefits that were overpaid to her for the months of February 2024 through October 2024?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Petitioner is a FAP benefit recipient.
2. On December 20, 2023, the Department mailed a notice of case action to Petitioner to notify her that she was eligible for a FAP benefit of \$██████████ per month, effective

January 1, 2024. The notice of case action stated that Petitioner's FAP benefit amount was determined using the following information:

- a. Group size of one.
 - b. \$██████████ per month in unearned income.
 - c. \$1,200.00 per month in housing costs.
 - d. \$198.00 per month for a standard deduction.
 - e. \$680.00 per month for a heat/utility standard.
3. The Department issued Petitioner a FAP benefit of \$██████████ per month from February 2024 through September 2024, and the Department issued Petitioner a FAP benefit of \$██████████ for October 2024.
 4. During the months of February 2024 through October 2024, Petitioner was splitting a total rent expense of \$1,200.00 with her daughter, ██████████. Petitioner was paying \$600.00 of the rent expense, and her daughter was paying \$600.00 of the rent expense. Petitioner reported this to the Department, but the Department budgeted \$1,200.00 for her housing costs rather than \$600.00.
 5. During the months of February 2024 through October 2024, Petitioner's gross Social Security RSDI benefit of \$██████████ was being reduced by \$100.00 per month by the Social Security Administration to recoup an overpayment that was unrelated to fraud. The Department budgeted Petitioner's gross Social Security RSDI benefit of \$██████████ as her unearned income.
 6. In September 2024, the Department audited Petitioner's case as part of its quality control process. The Department discovered that it did not properly budget Petitioner's housing costs, and the Department discovered that it did not properly budget Petitioner's unearned income. The Department revised Petitioner's budget to correct the budgeted housing costs and unearned income. The Department reduced Petitioner's housing costs to \$600.00 per month, and the Department reduced Petitioner's unearned income to \$██████████ per month. The Department redetermined Petitioner's FAP benefit amount, and the Department determined that Petitioner was only eligible for a FAP benefit of \$██████████ per month from February 2024 through October 2024.
 7. The Department determined that it overpaid Petitioner \$██████████ in FAP benefits for the months of February 2024 through October 2024.
 8. On November 7, 2024, the Department mailed a notice of overissuance to Petitioner to notify her that she was overpaid \$██████████ in FAP benefits for the months of February 2024 through October 2024 due to an agency error.
 9. 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 Food Assistance Program (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.

When a client receives more benefits than she was entitled to receive, the Department must attempt to recoup the overpayment. BAM 700 (June 1, 2024), p. 1. The overpayment amount is the amount of benefits in excess of the amount the client was eligible to receive. *Id.* at 2.

In this case, the Department overpaid Petitioner FAP benefits for the months of February 2024 through October 2024 because the Department issued Petitioner more FAP benefits than she was entitled to receive. The Department issued Petitioner a FAP benefit of \$[REDACTED] per month from February 2024 through September 2024, and the Department issued Petitioner a FAP benefit of \$[REDACTED] for October 2024. However, Petitioner was only entitled to receive a FAP benefit of \$[REDACTED] per month from February 2024 through September 2024, and Petitioner was only entitled to receive a FAP benefit of \$[REDACTED] for October 2024.

The Department should have only budgeted \$[REDACTED] per month for Petitioner's unearned income because \$100.00 was being withheld from her \$[REDACTED] monthly gross RSDI benefit to recoup an overpayment that was unrelated to fraud, and an amount withheld to recoup an overpayment unrelated to fraud is not included in gross income. BEM 500 (April 1, 2022), p. 6. Additionally, the Department should have only budgeted \$600.00 per month for Petitioner's housing costs because Petitioner was only paying \$600.00 per month for rent, and the amount paid toward a shared rent expense is the amount that is an allowable housing cost. BEM 554 (October 1, 2024), p. 14.

Based on Petitioner's gross RSDI benefit of \$[REDACTED] per month, Petitioner's rent expense of \$600.00 per month, and Petitioner's obligation to pay her heating/cooling utilities, Petitioner's net income was \$[REDACTED] per month. This was Petitioner's net income through September 2024. Based on Petitioner's net income of \$[REDACTED] per month, Petitioner was eligible for a maximum FAP benefit amount of \$[REDACTED] per month from February 2024 through September 2024. Effective October 1, 2024, the FAP standards changed. Petitioner's net income was \$[REDACTED] for October 2024, so Petitioner was eligible for a maximum FAP benefit amount of \$[REDACTED] for October 2024.

The Department overpaid Petitioner \$ [REDACTED] for the months of February 2024 through October 2024. The Department properly determined that it overpaid Petitioner FAP benefits for the months of February 2024 through October 2024, but the Department did not properly determine the amount of the overpayment. The Department determined that it overpaid Petitioner FAP benefits of \$ [REDACTED] for the months of February 2024 through October 2024 when it actually overpaid Petitioner FAP benefits of \$ [REDACTED]. The Department did not consider the updated standards that went into effect in October 2024, which caused the Department to not properly determine the overpayment amount.


The Department overpaid Petitioner due to the Department's error, but Petitioner is still required to repay it. The Department must pursue a FAP overpayment that results from the Department's error when the amount is greater than or equal to \$250.00. BAM 700 at 5 and BAM 705 (June 1, 2024), p. 1. The amount of Petitioner's overpayment was greater than or equal to \$250.00. Thus, although the Department overpaid Petitioner due to the Department's error, the Department acted in accordance with its policies when it pursued the overpayment.

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 properly determined that Petitioner owes the Department a debt for FAP benefits that were overpaid to her for the months of February 2024 through October 2024, but the Department did not properly determine the amount of the overpayment.

IT IS ORDERED that the Department's decision is **AFFIRMED IN PART and REVERSED IN PART**. The Department's decision that Petitioner owes the Department a debt for FAP benefits that were overpaid to her for the months of February 2024 through October 2024 is affirmed, but the amount of the overpayment is reversed. The Department shall redetermine the amount of the overpayment 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.

JK/pe



Jeffrey Kemm
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

Krysenda Slayton
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Lansing, MI 48933
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Interested Parties

BSC3
B. Cabanaw
M. Holden
N Denson-Sogbaka
MOAHR

Via First Class Mail:

Petitioner

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