



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
SUZANNE SONNEBORN
EXECUTIVE DIRECTOR

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DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED], MI [REDACTED]

Date Mailed: January 10, 2025
MOAHR Docket No.: 24-012865
Agency No.: [REDACTED]
Petitioner: [REDACTED] [REDACTED]

ADMINISTRATIVE LAW JUDGE: Caralyce M. Lassner

HEARING DECISION

Following Petitioner's request for a hearing, this matter is before the undersigned Administrative Law Judge 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; and 45 CFR 205.10; and Mich Admin Code, R 792.11002. After due notice, a hearing was held by telephone on January 2, 2025. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Darcus Braswell, Overpayment Establishment Analyst.

ISSUE

Did the Department properly determine that Petitioner receive an overpayment (OP) of Food Assistance Program (FAP) benefits in the amount of \$498 on February 21, 2024, for the benefit month of May 2023, due to agency error (AE)?

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 an ongoing recipient of FAP.
2. On February 21, 2024, the Department issued a FAP supplement to Petitioner in the amount of \$498 for the benefit month of May 2023. (Exhibit A, p. 31).
3. On October 30, 2024, the Department sent Petitioner a Notice of Overissuance (NOP) in the amount of \$498 for the benefit month of May 2023 due to agency error (AE). (Exhibit A, pp. 45 – 50).

4. On November 8, 2024, the Department received a request for hearing from Petitioner disputing the NOP. (Exhibit A, pp. 6 – 7).
5. Petitioner received the FAP supplement.
6. Petitioner should not have received the FAP supplement.

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) [formerly known as the Food Stamp program] 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 (formerly known as the Department of Human Services) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011.

Petitioner requested a hearing in this matter to dispute the finding by the Department that Petitioner she is required to repay \$498 for a FAP OP. The Department is seeking to recover a \$498 FAP OP issued in February 2024 for the benefit month of May 2023 due to AE. At the hearing, Petitioner clarified that her concern was how she will repay the FAP OP.

When a client group receives more benefits than entitled to receive, the Department must attempt to recoup the OP. BAM 700 (June 2024), p. 1; 7 CFR 273.18(a)(2). The amount of a FAP OP is the benefit amount the client actually received minus the amount the client was eligible to receive. BAM 705 (June 2024), p. 6; 7 CFR 273.18(c)(1). An OP can be caused by client error, AE, or an intentional program violation (IPV). BAM 700, pp. 5 – 9. An AE is caused by incorrect actions by the Department, including system generated supplements that were issued in error. BAM 700, p. 2; BAM 705, pp. 1 – 2; 7 CFR 273.18(b)(3). When an OP in excess of \$250 is due to AE and occurred within the 12 months prior to being discovered, the Department is required to establish a claim for repayment for the OP. BAM 700, p. 5; BAM 705, p. 7; 7 CFR 273.18(d)(3).

In this case, there was no dispute that the Department issued a \$498 FAP supplement to Petitioner in February 2024 and that Petitioner received it. The Department testified that a system error caused the FAP supplement to be issued and Petitioner testified that she should not have received it. Therefore, the Department did establish that Petitioner received a \$498 OP of FAP benefits due to AE that the Department is entitled to recoup.

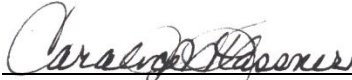
It is noted that during the hearing, Petitioner testified that her primary concern was related to how she will repay the OP. Petitioner may contact the Department directly to discuss her repayment options.

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 Department policy when it determined Petitioner received an OP of \$498 in FAP benefits in February 2024 for the benefit period of May 2023 due to AE that the Department is entitled to recoup.

DECISION AND ORDER

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

CML/nr



Caralyce M. Lassner
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

