



GRETCHEN WHITMER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ORLENE HAWKS  
DIRECTOR



Date Mailed: September 3, 2019  
MOAHR Docket No.: 19-007977  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE:** Kevin Scully

### **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; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on August 28, 2019, from Lansing, Michigan. Petitioner represented herself. The Department of Health and Human Services was represented by Alisha Young.

### **ISSUE**

Did the Department of Health and Human Services (Department) properly determine that Petitioner has received an overissuance of Food Assistance Program (FAP) benefits that must be recouped?

### **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 May 2, 2018, the Department notified Petitioner that she was eligible for Food Assistance Program (FAP) benefits as a group of one with a \$192 monthly allotment of benefits based on a gross monthly income of \$ [REDACTED] and monthly housing expenses of \$500. Exhibit A, pp 82-85.
2. On May 3, 2017, the Department received Petitioner's Redetermination (DHS-1010) form where she reported receiving two monthly social security payments each month. Exhibit A, p 105.
3. Petitioner was an ongoing Food Assistance Program (FAP) recipient from June 1, 2018, through May 31, 2019, receiving a \$192 monthly allotment of benefits in each month. Exhibit A, pp 13-14.

4. Petitioner receives monthly Retirement, Survivors, and Disability Insurance (RSDI) in the gross monthly amount of \$[REDACTED] from May 3, 2018, through December 3, 2018, and \$[REDACTED] from January 1, 2019, through May 3, 2019. Exhibit A, pp 77-78.
5. Petitioner receives monthly Retirement, Survivors, and Disability Insurance (RSDI) in the gross monthly amount of \$[REDACTED] from June 3, 2018, through December 3, 2018, and \$[REDACTED] from January 3, 2019, through May 3, 2019. Exhibit A, p 80.
6. On July 17, 2019, the Department sent Petitioner a Notice of Overissuance (DHS-4358-A) instructing her that a \$2,124 overissuance of Food Assistance Program (FAP) benefits would be recouped. Exhibit A, pp 7-12.
7. On July 26, 2019, the Department received Petitioner's request for a hearing protesting the recoupment of Food Assistance Program (FAP) benefits. Exhibit A, pp 4-5.

### **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.

When a client group receives more benefits than it is entitled to receive, the Department must attempt to recoup the overissuance. Department of Human Services Bridges Administrative Manual (BAM) 700 (October 1, 2018), p 1.

Petitioner was receiving FAP benefits as a group of one effective May 2, 2018, with a \$192 monthly allotment based on her receipt of one monthly RSDI payment. Due to Department error, the Department failed to account for a second RSDI payment she was receiving and had reported to the Department. Petitioner received FAP benefits totaling \$2,304 from June 1, 2018, through May 31, 2019. If the Department had properly applied the second RSDI benefit Petitioner received during that period, she would have been eligible for only \$180 of those benefits. Therefore, Petitioner received a \$2,124 overissuance of FAP benefits.

The evidence supports a finding that Petitioner had properly reported her income to the Department but that the income was not properly applied towards her eligibility for FAP benefits due to Department error.

The overissuance period begins the first month (or first pay period for CDC) when benefit issuance exceeds the amount allowed by policy, or 12 months before the date the overissuance was referred to the RS, whichever 12-month period is later. BAM 705, p 5.

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 that Petitioner received Food Assistance Program (FAP) benefits that she was not eligible for that must be recouped.

**DECISION AND ORDER**

Accordingly, the Department's decision is AFFIRMED.

KS/hb

  
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**Kevin Scully**  
Administrative Law Judge  
for Robert Gordon, Director  
Department of Health and Human Services

**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

**DHHS**

Denise Croff  
301 E. Louis Glick Hwy.  
Jackson, MI 49201

**DHHS Department Rep.**

MDHHS-Recoupment  
235 S Grand Ave  
Suite 1011  
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Jackson County, DHHS

BSC4 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

**Petitioner**

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