



GRETCHEN WHITMER  
GOVERNOR

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

ORLENE HAWKS  
DIRECTOR

[REDACTED], MI [REDACTED]

Date Mailed: September 13, 2019  
MOAHR Docket No.: 19-008738  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE:** Janice Spodarek

### **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 telephone hearing was held on September 11, 2019, from Lansing, Michigan.

Petitioner appeared and testified unrepresented.

The Department of Health and Human Services (Department) was represented by Rebecca Smalley, Recoupment Specialist.

The Department's A.71 Exhibit was offered and admitted into the record.

### **ISSUE**

Was Petitioner overissued FAP benefits the Department is entitled to recoup?

### **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 [REDACTED] [REDACTED] 2017, Petitioner applied for the welfare FAP program acknowledging her rights and responsibilities including all disclosures of income and assets and acknowledging that she can be required to repay any overissued benefits.
2. Petitioner did not disclose that she owned any real property on her application.

3. On July 9, 2018 Petitioner's FAP case was processed as a redetermination. At that time, Petitioner did not disclose that she owned any real property. At the interview Petitioner did state that she may own property at [REDACTED] Michigan.
4. On July 30, 2018 the Respondent ran an inquiry that revealed that Petitioner was the owner of three properties in [REDACTED] Michigan.
5. An August 6, 2019 review of Petitioner's file indicated an active overissuance claim previously established on May 29, 2019 due to unreported income.
6. SEVs on all three properties are as follows: 216.00, 216.00 and 4,886.00. Petitioner did not reside at any of the properties. Petitioner was over the asset eligibility for period from August 10, 2017 through July 31, 2018. Subsequently Petitioner transferred the properties to her church.
7. On August 6, 2019 the Respondent issued a recoupment notice informing Petitioner that due to client error Petitioner owed \$1,897.00 in FAP benefits.
8. On August 12, 2019 Petitioner filed a hearing request arguing that she was unaware that she could not have a house in her name, and that the properties were worthless.

### **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.

As a beneficiary of a benefit welfare services case, the party alleging eligibility has the burden of proof by a preponderance of evidence. Here, that burden falls on Petitioner.

Here, applicable policy and procedure is found in BEM 105, 400; BAM 105, 115, 700 series. These items clearly indicate that the Department is to ensure that a beneficiary's file contain all required verifications to support eligibility for all welfare programs. Failure to obtain required verifications can subject the State of Michigan to significant financial penalties.

The evidence here shows that Petitioner was informed of her responsible to fully disclose her assets. Petitioner argued that she was not aware of this responsibility. However, Petitioner's argument is simply not supported by the evidence of record as Petitioner's signature on the application and redetermination is an affirmation of the rights and responsibilities spelled out in the documents she signed.

As to Petitioner's argument that the properties were not worth the SEV value, such is subject to further verification by a licensed 3<sup>rd</sup> party. Petitioner's failure to disclose the properties stops her from being able to at this point attempt to obtain verification that the real estate was worthless. Petitioner also has a history of failure to fully disclose income. Petitioner's credibility is compromised.


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 was overissued FAP benefits. Thus, the Department's recoupment action is upheld.

It is noted that Petitioner and the Department are not barred by this order from making any adjustments to the recoupment in the future should Petitioner obtain required verifications regarding the value of any real estate counted during the recoupment period; such will be solely at the discretion of the Department.

### **DECISION AND ORDER**

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

JS/nr

  
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Janice Spodarek  
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**

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Saginaw County DHHS- via electronic  
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**Petitioner**

  
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