



GRETCHEN WHITMER  
GOVERNOR

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

ORLENE HAWKS  
DIRECTOR

[REDACTED]  
[REDACTED], MI [REDACTED]

Date Mailed: January 14, 2020  
MOAHR Docket No.: 19-013044  
Agency No.: [REDACTED]  
Respondent: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Carmen G. Fahie**

### **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 January 9, 2020, from Lansing, Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by Katina Cook, Lead Worker and Walita Randle, Recoupment Specialist.

### **ISSUE**

Did the Department properly that Respondent had received an over issuance (OI) of Food Assistance Program (FAP) benefits due to Respondent and Department 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. Respondent was a recipient of FAP benefits from the Department.
2. Respondent failed to report that her husband was employed at [REDACTED] and received a first paycheck on November 23, 2018, within 10 days as required by Department policy, until her Redetermination submitted online on February 20, 2019, of income that exceeded her simplified reporting limit \$1,784.00. Department Exhibit 1, pgs. 10-13 and 73-76.
3. On February 20, 2019, the Department became aware that Respondent's husband was employed based on the redetermination submitted, but the Department failed

to count the earned income in determining FAP eligibility. Department Exhibit 1, pgs. 10-13, 21-24, and 73-76.

4. The Department alleges that Respondent received a FAP over issuance during the period of January 1, 2019, through February 28, 2019, due to Respondent's error, and due to Department's error from the period March 1, 2019, through November 30, 2019. Department Exhibit 1, pgs. 19-20 and 51-68.
5. The Department alleges that Respondent received a \$636.00 FAP over issuance due to Respondent's error, and \$2,756.00 FAP over issuance due to Department's error that is still due and owing to the Department. Department Exhibit 1, pgs. 19-20 and 51-68.
6. On December 5, 2019, the Department received a hearing request from Respondent, contesting the Department's negative action.

### **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.

Additionally, Respondent reported during the hearing that she had reported that her husband was employed within the 10 days as required by Department policy but had no proof or verification. The Department Caseworker's case notes did not reflect any contact with Respondent during the contested time period. There was written verification through her redetermination on February 20, 2019, that Respondent reported her husband's employment income, but the Department failed to budget the additional income. Respondent's FAP OI is less than \$1,000 and will not result in an intentional program violation. Although the Administrative Law Judge found Respondent to be credible, a FAP OI over \$250 requires that the Department recoup the OI.

As a result, the Department alleges that Respondent received a FAP over issuance during the period of January 1, 2019, through February 28, 2019, due to Respondent's error, and due to Department's error from the period March 1, 2019, through November 30, 2019. Department Exhibit 1, pgs. 19-20 and 51-68. The Department alleges that Respondent received \$636.00 FAP OI due to Respondent's error, and \$2,756.00 FAP OI due to Department's error that is still due and owing to the Department. Department

Exhibit 1, pgs. 19-20 and 51-68. Department Exhibit 1, pgs. 1-77. BAM 105, 220, 700, and 715. BEM 550.

Respondent had a child that was born on August 17, 2019. Respondent reported the child's birth to the Department Caseworker timely. However, the child was not added by the Department Caseworker to Respondent's case until November 2019 to effect December 2019 benefits due to Department's error. The Department only counted a household of 3 instead of 4 for September 2019, October 2019, and November 2019. Therefore, the Department needs to redetermine the FAP OI for those contested months.

### **DECISION AND ORDER**

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that the Department **did** establish a FAP benefit OI to Respondent for the contested time period of January 1, 2019, through February 28, 2019, due to Respondent's error and due to Department's error from the period March 1, 2019, through November 30, 2019.

Accordingly, the Department is **AFFIRMED IN PART** with respect to the time periods of Respondent and Department FAP OIs and **REVERSED IN PART** with respect to amount of the FAP OI due to Department not counting a household composition of four but of three for September 2019, October 2019, and November 2019.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Initiate a redetermination of Respondent's FAP OI for a household group size of four for the months of September 2019, October 2019, and November 2019.
2. Based on policy, the Department should provide Respondent with written notification of the Department's revised FAP OI determination and the amount for the contested time period.

CF/hb



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**Carmen G. Fahie**  
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 Department Rep.**

MDHHS-Recoupment  
235 S Grand Ave  
Suite 1011  
Lansing, MI 48909

**DHHS**

Sharnita Grant  
25637 Ecorse Rd.  
Taylor, MI 48180

Wayne County (District 18), DHHS

BSC4 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

MDHHS-OIG via electronic mail

**Petitioner**

[REDACTED]  
[REDACTED], MI [REDACTED]