



GRETCHEN WHITMER  
GOVERNOR

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

ORLENE HAWKS  
DIRECTOR

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

Date Mailed: September 6, 2019  
MOAHR Docket No.: 19-007967  
Agency No.: [REDACTED]  
Respondent: [REDACTED]

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

### **HEARING DECISION**

Upon the request for a hearing by the Department of Health and Human Services (Department), this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9, and in accordance with Titles 7, 42 and 45 of the Code of Federal Regulation (CFR), particularly 7 CFR 273.16, 42 CFR 431.230(b), and 45 CFR 235.110, and with Mich Admin Code, R 400.3130 and 400.3178. After due notice, a telephone hearing was held on July 31, 2018, from Lansing, Michigan. After due notice, a telephone hearing was held on August 28, 2019, from Lansing, Michigan. The Respondent was represented by himself. The Department of Health and Human Services (Department) was represented by Rebecca Smalley, Recoupment Specialist.

### **ISSUE**

Did the Department properly that Respondent had received an over issuance 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. Department Exhibit 1, pg. 23.
2. On November 5, 2018, Respondent reported a second job at [REDACTED] with a change report to the Department. Department Exhibit 1, pgs. 20-21.
3. On June 18, 2019, the Department became aware that Respondent had additional income that had been reported on November 5, 2018, to the Department, but the

case was not certified resulting in incorrect benefits still being issued. Department Exhibit 1, pg. 22.

4. The Department alleges that Respondent received a FAP over issuance during the period of December 1, 2018, through May 31, 2019 due to Department's error. Department Exhibit 1, pgs. 24-26 and 32-53.
5. The Department alleges that Respondent received \$967.00 FAP OI due to Department's error that is still due and owing to the Department. Department Exhibit 1, pgs. 32-47.
6. On July 29, 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 273.21. 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 result, the Respondent received an OI of FAP benefits during the period of December 1, 2018, through May 31, 2019, due to Department's error. The Department alleges Respondent received \$967.00 FAP OI due to Department's error that is still due and owing to the Department. Department Exhibit 1, pgs. 6-54. BAM 105, 200, and 600. BEM 500 series.

### **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 totaling \$967.00 due to Department's error.

Accordingly, the Department is **AFFIRMED**.

The Department is ORDERED to initiate collection procedures for a FAP \$967.00 OI in accordance with Department policy.

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**

Jessica Tokar  
1509 Washington, Ste. A  
PO BOX 1609  
Midland, MI 48641

**DHHS Department Rep.**

MDHHS-Recoupment  
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Suite 1011  
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Midland County, DHHS

BSC2 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

**Petitioner**

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