



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: July 15, 2020  
MOAHR Docket No.: 20-003782  
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 8, 2020, from Lansing, Michigan. The Department was represented by Jennifer Braxmaier, Recoupment Specialist. Respondent was represented by himself.

### **ISSUE**

Did Respondent receive an over-issuance (OI) of Food Assistance Program (FAP) benefits due client error that the Department is required 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. Respondent was a recipient of FAP benefits from the Department.
2. The Department alleges Respondent received a FAP OI during the period August 8, 2019, through November 30, 2019, due to **Respondent's** error.
3. The Department alleges that Respondent received \$ [REDACTED] OI that is still due and owing to the Department.

### **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), and Department of Health and Human Services Reference Tables Manual (RFT).

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 to .3015.

Additionally, Petitioner applied for FAP benefits with an application received [REDACTED] 2019. He reported no income, but Petitioner was receiving Veteran's Administration (VA) benefits through his ex-wife as his payee. Petitioner was mistaken in believing that since his ex-wife was keeping all of his VA benefits that he had no countable income. Since he was the recipient of the VA benefits, it was countable as his income for determining FAP eligibility. Petitioner did report in October 21, 2019, when he was receiving the VA benefits to the Department. However, he did not report on his application on [REDACTED] 2019, resulting in an overissuance of FAP benefits in the amount of \$ [REDACTED] for the contested time period due to client error.

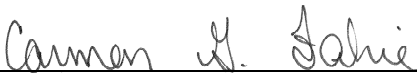
#### **DECISION AND ORDER**

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 \$ [REDACTED]

Accordingly, the Department is **AFFIRMED**.

The Department is **ORDERED** to initiate collection procedures for a FAP \$ [REDACTED] 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

<b>DHHS</b>	Wexford county via electronic mail
	BSC1 via electronic mail
	M. Holden via electronic mail
	D. Sweeney via electronic mail
	MDHHS-OIG via electronic mail
<b>DHHS Department Rep.</b>	MDHHS-Recoupment
<b>Petitioner</b>	 , MI