



GRETCHEN WHITMER  
GOVERNOR

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

ORLENE HAWKS  
DIRECTOR

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████████████████████, MI ██████████

Date Mailed: August 11, 2020  
MOAHR Docket No.: 20-004246  
Agency No.: ██████████  
Petitioner: ██████████ ██████████

**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, telephone hearing was held on July 29, 2020, from Lansing, Michigan. Petitioner represented himself. Julie Barr represented the Department.

**ISSUE**

Did the Department of Health and Human Services (Department) properly determine that Petitioner 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 ██████ ██████ 2019, the Department received Petitioner's application for Food Assistance Program (FAP) where he acknowledged the duties and responsibilities of receiving food assistance.
2. On May 22, 2019, the Department notified Petitioner that he was eligible for Food Assistance Program (FAP) benefits as a household of one not receiving any income.
3. On August 2, 2019, the Department received Petitioner's Change Report (DHS-2240) where he reported starting employment.
4. Petitioner received earned income from employment from July 12, 2019, through February 7, 2020.

5. Petitioner received Food Assistance Program (FAP) benefits totaling \$1,162 from September 1, 2019, through February 29, 2020.
6. On April 22, 2020, the Department sent Petitioner a Notice of Overissuance (DHS-4358) instructing him that an overissuance of Food Assistance Program (FAP) benefits would be recouped.
7. On May 15, 2020, the Department received Petitioner's request for a hearing protesting the recoupment of Food Assistance Program (FAP) benefits.

### **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.

On ■■■■■ 2019, the Department received Petitioner's application for FAP benefits. The Department determined that Petitioner was eligible for FAP benefits as a household of one not receiving any income. Petitioner began receiving a \$192 monthly allotment of FAP benefits, which was the maximum amount available for a household of one and corresponds to a net monthly income of \$■ per month. Department of Health and Human Services Reference Table Manual (RFT) 260 (October 1, 2018), p 1.

On August 2, 2019, the Department received Petitioner's Change Report (DHS-2240) where he reported starting employment. Petitioner provided the Department with verification of his employment and earned income.

However, due to Department error, the earned income from employment that Petitioner reported to the Department was not applied towards his ongoing eligibility for FAP benefits.

Clients must report changes in circumstance that potentially affect eligibility or benefit amount. Changes must be reported within 10 days of receiving the first payment reflecting the change. Department of Health and Human Services Bridges Administrative Manual (BAM) 105 (October 1, 2019), p 12. The Department will act on

a change reported by means other than a tape match within 15 workdays after becoming aware of the change, except that the Department will act on a change other than a tape match within 10 days of becoming aware of the change. Department of Health and Human Services Bridges Administrative Manual (BAM) 220 (April 1, 2019), p 7. A pending negative action occurs when a negative action requires timely notice based on the eligibility rules in this item. Timely notice means that the action taken by the department is effective at least 12 calendar days following the date of the department's action. BAM 220, p 12.

If the Department had properly processed Petitioner's report of a change of employment status and receipt of earned income, his eligibility for ongoing FAP benefits would have been redetermined by the first benefits period after August 13, 2019.

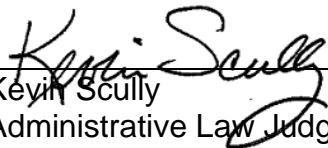
Petitioner received FAP benefits totaling \$1,162 from September 1, 2019, through February 29, 2020, but this was based on his receipt of no income. If the Department had considered the earned income he actually received during that period, would have been eligible for only \$177 of those benefits. Therefore, Petitioner received a \$939 overissuance of FAP benefits.

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 had received a \$939 overissuance of Food Assistance Program (FAP) benefits due to Department error.

### **DECISION AND ORDER**

Accordingly, the Department's decision is AFFIRMED.

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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**

Kimberly Myers  
234 West Baraga Ave.  
Marquette, MI  
49855

Marquette County DHHS- via electronic mail

OIG Hearings- via electronic mail

L. Bengel- via electronic mail

**DHHS Department Rep.**

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

**Petitioner**

████████████████████ - via first class mail  
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