



GRETCHEN WHITMER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

ORLENE HAWKS  
DIRECTOR

[REDACTED]  
[REDACTED]  
[REDACTED]

Date Mailed: March 21, 2019  
MAHS Docket No.: 19-001276  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: John Markey**

**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 March 13, 2019, from Detroit, Michigan. Petitioner appeared and represented himself. Also appearing on behalf of Petitioner was Petitioner's wife, [REDACTED]. The Department of Health and Human Services (Department) was represented by Jessica Kirchmeier, Hearings Coordinator, and Christine Allen, Recoupment Specialist. During the hearing, a 170-page packet of documents was offered and admitted into evidence as Exhibit A, pp. 1-170.

**ISSUE**

Did Petitioner receive an overissuance of Food Assistance Program (FAP) benefits that 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. For all time periods relevant to this matter, Petitioner had an open FAP benefits case with the Department.
2. On June 16, 2015, the Department issued to Petitioner a Redetermination in order to gather relevant information regarding Petitioner's ongoing eligibility for FAP benefits. On June 30, 2015, Petitioner returned the completed form to the Department. Petitioner reported that the only income for his household, which

consisted of Petitioner, Petitioner's wife, and their four children, was his wife's weekly wages of \$[REDACTED] from her employment with [REDACTED]. Exhibit A, pp. 6-11.

3. On July 28, 2015, the Department issued to Petitioner a Notice of Case Action informing Petitioner that he was approved for monthly FAP benefits of \$318 for his household of six. The Notice informed Petitioner that he was a simplified reporter and told that the only time he would have to report changes to the Department was when his group's income for any month exceeded the simplified reporting limit, which was \$3,464. Petitioner was directed to report by the tenth of the following month anytime the group's monthly income exceeded that amount. Exhibit A, pp. 19-21.
4. On June 13, 2016, the Department issued to Petitioner a Redetermination in order to gather relevant information regarding Petitioner's ongoing eligibility for FAP benefits. On June 29, 2016, Petitioner returned the completed form to the Department. Petitioner reported that the only income for his household was his wife's weekly wages from her employment with [REDACTED]. Exhibit A, pp. 33-38.
5. On August 16, 2016, the Department issued to Petitioner a Notice of Case Action informing Petitioner that he was approved for monthly FAP benefits of \$273 for his household of five. The Notice informed Petitioner that he was a simplified reporter and told that the only time he would have to report changes to the Department was when his group's income for any month exceeded the simplified reporting limit, which was \$3,078. Petitioner was directed to report by the tenth of the following month anytime the group's monthly income exceeded that amount. Exhibit A, pp. 43-46.
6. In 2015, Petitioner's household income exceeded the simplified reporting limit once, and that was during the month of December. In 2016, Petitioner's household income exceeded the simplified reporting limit in March, June, November, and December. In 2017, Petitioner's household income exceeded the simplified reporting limit in June. The periodic increases in income were the result of irregular bonuses Petitioner's wife received from her job. Exhibit A, pp. 100-105; 122-137.
7. Petitioner did not report any of the times that his household's income exceeded the monthly simplified reporting limit.
8. On January 17, 2019, the Department issued to Petitioner a Notice of Overissuance informing Petitioner that the Department believed Petitioner was overissued \$1,280 in FAP benefits from December 1, 2015, through June 30, 2017. Exhibit A, pp. 166-170.
9. On [REDACTED] 2019, Petitioner submitted to the Department a request for hearing objecting to the Department's 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.

In this case, the Department is seeking to establish an alleged overissuance of FAP benefits issued to Petitioner. The Department alleges that the overissuance was caused by Petitioner's failure to report that his household's income exceeded the simplified reporting limit during six separate months from December 2015 through June 2017. At some point, the Department became aware that Petitioner's household income exceeded the limit and forwarded the matter to a recoupment specialist to determine whether there was an overissuance of FAP benefits. The recoupment specialist factored the unreported income into the FAP budgets for all six months at issue and determined that Petitioner was overissued \$1,280 in FAP benefits.

When a client group receives more benefits than it is entitled to receive, the Department must attempt to recoup the overissuance. BAM 700 (January 2018), p. 1. A client error occurs when the client received more benefits than they were entitled to because the client gave incorrect or incomplete information to the Department. BAM 700, p. 7. An agency error is caused by incorrect action by the Department staff or Department processes. BAM 700, p. 5. The amount of the overissuance is the benefit amount the group actually received minus the amount the group was eligible to receive. BAM 700, p. 1. If improper budgeting of income caused the overissuance, the Department will use actual income for the past overissuance month for that income source when determining the correct benefit amount. BAM 705 (January 2016), p. 8. For client error overissuances due, at least in part, to failure to report earnings, the Department does not allow the 20 percent earned income deduction on the unreported earnings. BAM 720 (October 2017), p. 8.

In support of its contention that Petitioner was overissued benefits, the Department presented FAP overissuance budgets for the six months at issue, all of which were during the period of December 2015 through June 2017. The Department calculated the benefits Petitioner should have received each month during the overissuance period based on the actual income as reflected on Petitioner's wife's payroll records. Petitioner's wife verified at the hearing that the income as reflected on those documents was accurate. The Department also presented Petitioner's FAP benefit summary. The

benefit summary shows Petitioner was issued FAP benefits in the total amount of \$1,515 during those six months in question. Based upon the evidence presented at the hearing, Petitioner was only entitled to receive FAP benefits totaling \$235 for those six months combined. The Department correctly concluded that Petitioner received an overissuance of FAP benefits of \$1,280 during those six months at issue from December 1, 2015, through June 30, 2017.

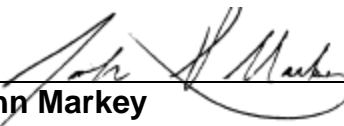
Petitioner was adamant that he fulfilled his reporting obligations and should, at the very least, be granted the benefit of the 20 percent earned income deduction on the unreported earnings. The Department, however, correctly deemed this a client error overissuance and properly used the entire unreported income amount in calculating the overissuance budgets. Petitioner was informed repeatedly that he had an obligation to report when his monthly income exceeded the limit. He failed to do so during any month over the course of about 2.5 years, despite going over the limit at least six times. Thus, the Department properly did not apply the earned income deduction to Petitioner's unreported income. Accordingly, the Department's action is affirmed.

### **DECISION AND ORDER**

Accordingly, the Department is **AFFIRMED**.

The Department is **ORDERED** to initiate collection procedures for a \$1,280 FAP overissuance, less any amounts already recouped or collected, in accordance with Department policy.

JM/cg

  
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**John Markey**  
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 Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS 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. MAHS will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MAHS. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MAHS Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings  
Reconsideration/Rehearing Request  
P.O. Box 30639  
Lansing, Michigan 48909-8139

**Via Email:**

MDHHS-Eaton-Hearings  
MDHHS-Recoupment Hearings  
M. Holden  
D. Sweeney  
BSC2- Hearing Decisions  
MAHS

**Petitioner –  
Via First-Class Mail:**

██████████  
████████████████████  
████████████████████

**Authorized Hearing Rep. –  
Via First-Class Mail:**

██████████  
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