



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]

Date Mailed: May 23, 2019  
MOAHR Docket No.: 19-004108  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Ellen McLemore**

**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 May 22, 2019, from Detroit, Michigan. Petitioner was present and represented himself. The Department of Health and Human Services (Department) was represented by Susan Laws, Office Manager and Jody Anderson, Recoupment Specialist.

**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. Petitioner was an ongoing FAP recipient during the period of October 1, 2017 through February 28, 2019 (Exhibit A, pp. 16-17).
2. Petitioner received Unemployment Compensation Benefits (UCB) during the period of August 5, 2017 and December 30, 2017 (Exhibit A, pp. 35-37).
3. Petitioner obtained employment in August 2018.
4. On March 26, 2019, the Department sent Petitioner Notice of Overissuance informing him that he was overissued FAP benefits during the period of October 1,

2017 through February 28, 2019 (overissuance period) in the amount of \$1,246 (Exhibit A, pp. 10-14).

5. On [REDACTED], 2019, Petitioner submitted a request for hearing disputing the Department's actions.

### **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, Petitioner received UCB income from August 2017 through December 2017. Petitioner also obtained employment in August 2018. Petitioner was employed from August 2018 through February 2019. The Department testified that Petitioner did not report the earned income or the UCB income. As a result, the income was not budgeted, and Respondent received an overissuance of FAP benefits during the overissuance period.

When a client group receives more benefits that it is entitled to receive, the Department must attempt to recoup the overissuance. BAM 700 (October 2016), 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. 6. An agency error is caused by incorrect action by the Department staff or Department processes. BAM 700, p. 4. The amount of the overissuance is the benefit amount the group actually received minus the amount the group was eligible to receive. BAM 705 (January 2016), p. 6. 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, 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 (January 2016), p. 10.

In support of its contention that Petitioner was overissued benefits, the Department presented FAP overissuance budgets for the period of October 2017 through February 2019 (Exhibit A, pp. 18-34). The Department calculated the benefits Petitioner should have received each month during the overissuance period based on the addition of Petitioner's earned and UCB income. The Department presented Petitioner's UCB

Consolidated Income Inquiry search showing he received UCB benefits during the period of August 5, 2017 and December 30, 2017 (Exhibit A, pp. 35-37). The Department also presented Petitioner's Work Number report from his employment with [REDACTED] (Exhibit A, pp. 40-44). The document shows that Petitioner was employed and receiving earnings during the period of December 2018 through February 2019.

In support of its contention that the failure to budget the income was a result of client error, the Department presented the Case Comments from Petitioner's case file (Exhibit A, p. 9). The document shows that Petitioner did not report the earned or UCB income. The Department also presented Petitioner's Electronic Case File (ECF) (Exhibit A, p. 93). The ECF consists of scanned documents, arranged by category and identified by a client name, recipient ID or case number, established for a particular client group. BAM 300 (October 2016), p. 1. The ECF reveals that Petitioner did not submit any documentation verifying or reporting his earned or UCB income.

The Department also presented a Notice of Case Action sent to Petitioner on August 14, 2017 (Exhibit A, pp. 63-69), and another sent to him on July 30, 2018. In both notices, Petitioner was advised his FAP benefits were based on a household income of \$0 and that he needed to report any changes to the Department within 10 days.

Petitioner acknowledged he did not report his UCB income. Petitioner stated he believed the Department was aware of the income. Petitioner testified that he reported the income from employment. Petitioner stated he mailed his check stubs and submitted information to the Department in-person.

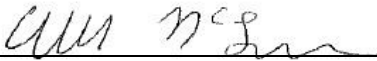
The Case Notes and ECF do not reflect that Petitioner submitted any notification or verification of his employment. Additionally, Petitioner acknowledged that he failed to report the UCB income. Therefore, the Department presented sufficient evidence to establish that the overissuance was a result of client error. The Department also presented sufficient evidence to establish that Petitioner was overissued FAP benefits in the amount of \$1,246 during the overissuance period. Thus, the Department is entitled to recoup/collect \$1,246 in overissued FAP benefits from Petitioner.

### **DECISION AND ORDER**

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 Petitioner was overissued FAP benefits in the amount of \$1,246 during the period of October 1, 2017 through February 28, 2019.

Accordingly, the Department's decision is **AFFIRMED**.

EM/cg

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

**Via Email:**

MDHHS-Calhoun-Hearings  
MDHHS-Recoupment  
M. Holden  
D. Sweeney  
BSC3- Hearing Decisions  
MOAHR

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

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