



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: August 12, 2020  
MOAHR Docket No.: 20-004288  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE:** Aaron McClintic

### **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 August 6, 2020, from Lansing, Michigan. The Petitioner was represented by himself. The Department of Health and Human Services (Department) was represented by Rebecca Smalley Recoupment Specialist. Department Exhibit 1, pp. 1-95 was received and admitted.

### **ISSUE**

Did the Department properly determine that Petitioner received an overissuance of Food Assistance Program (FAP) benefits?

### **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 applied for and received FAP benefits from the Department.
2. Respondent failed to disclose employment income from [REDACTED]
3. The Department alleges Respondent received a FAP OI during the period February 1, 2015 through January 31, 2016, due to **Client** error.
4. The Department alleges that Respondent received \$922 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.

### **OVERISSUANCE AMOUNT FIP, SDA, CDC and FAP**

The amount of the overissuance is the benefit amount the group or provider actually received minus the amount the group was eligible to receive. BAM 715

Additionally, the Department provided sufficient proof that Petitioner received an overissuance of FAP benefits totaling \$1428. Petitioner failed to disclose employment income increase from Sears. Department policy requires that all overissuances be recouped if they are due to client error. BAM 705 This was the action taken by the Department and it was proper and correct. Petitioner did not dispute that he failed to report employment income and stated that he understood he needed to pay back the overissuance. Petitioner was adamant that he misunderstood his reporting requirements due to what he was told by the Social Security Administration. The issue of whether Petitioner committed an intentional program was not part of this hearing.

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 \$1,428. Petitioner has repaid \$506 and the outstanding balance is \$922.

### **DECISION AND ORDER**

Accordingly, the Department is AFFIRMED.

The Department is ORDERED to initiate collection procedures for a \$922 OI in accordance with Department policy.

AM/nr



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Aaron McClintic  
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**

Elisa Daly  
411 East Genesee  
P.O. Box 5070  
Saginaw, MI  
48607

Saginaw 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  
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**Petitioner**

[REDACTED] - via first class mail  
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[REDACTED], MI  
[REDACTED]