



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: February 18, 2021  
MOAHR Docket No.: 20-008511  
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, a telephone hearing was held on February 11, 2021. Petitioner represented herself. The Department was represented by Latrisha Tartt.

### **ISSUE**

Did the Department of Health and Human Services (Department) properly determine that Petitioner had 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 August 23, 2019, the Department received Petitioner's Redetermination (DHS-1010) where she acknowledged the duties and responsibilities of receiving Food Assistance Program (FAP) benefits. Exhibit A, pp 50-57.
2. Petitioner reported on her August 23, 2019, Redetermination form that Supplemental Security Income (SSI) was her only source of income. Exhibit A, p 54.
3. Petitioner received Food Assistance Program (FAP) benefits totaling \$3,555 from March 1, 2020, through November 30, 2020. Exhibit A, p 27-29.
4. The Department discovered that Petitioner received child support payments that were not applied towards her eligibility for Food Assistance Program (FAP) benefits during a quality control audit completed on October 22, 2020. Exhibit A, pp 40-43.

5. Petitioner failed to report that she received child support payments from March 1, 2020, through November 30, 2020. Exhibit A, pp 38-39.
6. On December 14, 2020, the Department sent Petitioner a Notice of Overissuance (DHS-4358) instructing her that a \$1,089 overissuance of Food Assistance Program (FAP) benefits would be recouped for the period of March 1, 2020, through October 31, 2020. Exhibit A, pp 4-6.
7. On December 31, 2020, the Department received Petitioner's request for a hearing protesting the recoupment of Food Assistance Program (FAP) benefits. Exhibit A, pp 60-61.

### **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) is funded under the federal Supplemental Nutrition Assistance Program (SNAP) established by the Food and Nutrition Act of 2008, as amended, 7 USC 2011 through 7 USC 2036a. It is implemented by the federal regulations contained in 7 CFR 273. The Department administers FAP pursuant to MCL 400.10 of the Social Welfare Act, MCL 400.1 *et seq*, and Mich Admin Code, R 400.3001 through 400.3011.

Clients must report changes in circumstance that potentially affect eligibility or benefit amount within 10 days of receiving the first payment reflecting the change. Changes that must be reported include child support payments received. Department of Human Services Bridges Assistance Manual (BAM) 105 (October 1, 2019), pp 1-20.

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 August 23, 2019, the Department received Petitioner's Redetermination (DHS-1010) form where she acknowledged the duties and responsibilities of receiving FAP benefits. Petitioner received FAP benefits totaling \$3,555 from March 1, 2020, through November 30, 2020. During that period, Petitioner received child support payments that were not reported to the Department in a timely manner. If Respondent had reported the child support payments she was receiving, then she would have been eligible for only \$2,466 of those FAP benefits. Therefore, Petitioner received a \$1,089 overissuance of FAP benefits.

Petitioner argues that she was told that she did not need to report the child support payments but failed to offer any evidence supporting this claim.

Petitioner argued that if the Department had applied the child support payments towards its determination of her eligibility for FAP benefits, she would not have been eligible for the maximum allotment for her household but would have received supplementary benefits to bring the total FAP benefits received to the maximum allotment. Petitioner argues that therefore, there was no overissuance of FAP benefits because she should have received the maximum allotment of benefits in each month.

Whether Petitioner is eligible for supplemental FAP benefits for past months as a household not receiving the maximum benefit allotment under the authority of ESA 2020-15 is not an issue that falls under the jurisdiction of MOAHR. These supplemental benefits have been authorized by a waiver from the Food and Nutrition Service (FNS) and not an entitlement of the Food and Nutrition Act of 2008. There is no entitlement to the supplementary FAP benefits, and therefore there is no entitlement to a hearing protesting the denial of those benefits.

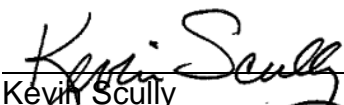
Petitioner received a regular monthly allotment of FAP benefits that was higher than the amount she would have received if she had reported the child support payments she was receiving. The difference between what her monthly allotment of FAP benefits that she received, and the amount she was eligible for fits the Department's definition of an overissuance and must be recouped by the Department.

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 received a \$1,089 overissuance of Food Assistance Program (FAP) benefits during the period of March 1, 2020, through October 31, 2020.

### **DECISION AND ORDER**

Accordingly, the Department's decision is AFFIRMED.

KS/nr

  
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Kevin Scully  
Administrative Law Judge  
for Elizabeth Hertel, 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 Department Rep.**

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

Genesee Union St. County DHHS- via  
electronic mail

OIG Hearings- via electronic mail

L. Bengel- via electronic mail

**DHHS**

Tamara Morris  
125 E. Union St 7th Floor  
Flint, MI  
48502

**Petitioner**

██████████ - via first class mail  
████████████████████  
██████████, MI  
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