



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: March 4, 2021  
MOAHR Docket No.: 21-000225  
Agency No.: ██████████  
Petitioner: ██████ ██████

**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 February 24, 2021, from Lansing, Michigan. The Petitioner was represented by himself. The Department of Health and Human Services (Department) was represented by Mary Peterson Recoupment Specialist. Department Exhibit 1, pp. 1-192 was received and admitted.

**ISSUE**

Did the Department properly determine that Petitioner received an overissuance (OI) of Food Assistance Program (FAP) benefits due to client error?

**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, Petitioner applied for FAP benefits. (Ex.1, pp. 12-26)
2. On June 17, 2019, at an interview Petitioner requested that ██████ ██████ be included in the FAP group because she purchased and prepared food with Petitioner. (Ex.1, pp. 27-28)
3. On October 21, 2019 Petitioner applied for benefits and included Ms. ██████ in the household. (Ex.1, pp. 46-61)
4. In November 2020, at redetermination Petitioner again reported Ms. ██████ in the home but reported no income for her. (Ex. 1, pp. 21-23)

5. On November 18, 2020, pursuant to a consolidated inquiry, employment income was discovered for Ms. [REDACTED] that began in January 2020.
6. On January 11, 2021, Notice of Overissuance was sent to Petitioner alleging that he received overissuance totaling \$4,009 due to client error failing to report a household member's income. (Ex. 1, p. 188)
7. On January 14, 2021, Petitioner verbally requested a hearing.
8. On January 14, 2021, Petitioner and Ms. [REDACTED] submitted statements asserting that Ms. [REDACTED] does not reside with Petitioner. (Ex., 1, pp. 9 & 11)
9. Petitioner testified at hearing that Ms. [REDACTED] does not reside with him and prepares meals for him that she also eats.
10. The recoupment specialist discovered an error in the overissuance calculation and agreed to recalculate the overissuance amount.

### **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.

#### **All Programs**

When a client group receives more benefits than it is entitled to receive, the Michigan Department of Health and Human Services (MDHHS) must attempt to recoup the overissuance. 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

In this case, Petitioner reported to the Department in June 2019, that Erin [REDACTED] was purchasing and preparing food with him and requested that she be included in his FAP group. If that was an error, then Petitioner should have reported that it was an error at that time. Petitioner benefitted by having Ms. [REDACTED] in his FAP group from June 2019 until January 2020. Once Ms. [REDACTED] began receiving employment income then that income needed to be reported and included in the FAP budget. Petitioner failed to report Ms. [REDACTED] employment income and as a result he received an overissuance

of FAP benefits totaling \$4,009. In January 2020, Petitioner could have also reported that Ms. [REDACTED] was no longer residing with him, if in fact that was true, and his FAP benefits would have been recalculated although he would not have been permitted to continue to share his food with Ms. [REDACTED]. Petitioner failed to report anything in January 2020.


The Department determination that Petitioner received an overissuance of FAP benefits because Erin [REDACTED] employment income was not reported was proper and correct and consistent with Department policy. BAM 705,7 CFR 273.18(a)(1)(i)

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 an overissuance due to client error failing to report household income. The Recoupment Specialist agreed at hearing to recalculate Petitioner's overissuance, once that is completed a notice should be sent to Petitioner.

### **DECISION AND ORDER**

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

AM/nr



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Aaron McClintic  
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**

Garilee Janofski  
201 Commerce Dr  
Ithaca, MI  
48847

Gratiot 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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48909

**Petitioner**

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