



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: August 25, 2021  
MOAHR Docket No.: 21-003501  
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 August 18, 2021. Petitioner represented herself. The Department was represented by Kathleen Zewatsky.

### **ISSUE**

Did the Department of Health and Human Services (Department) properly determine that Petitioner received an overissuance of Food Assistance Program (FAP) benefits that the Department must 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. On an application for assistance dated ██████████ ██████████ 2015, Petitioner acknowledged the duties and responsibilities of receiving Food Assistance Program (FAP) benefits including the duty to report changes of circumstances affecting her eligibility to receive benefits and agreeing to repay any overissued benefits. Exhibit A, pp 80-93.
2. On July 27, 2015, the Department received Petitioner's Redetermination (DHS-1010) form where she did not report being responsible for any medical expenses. Exhibit A, p 77.
3. On July 28, 2015, the Department notified Petitioner that she was eligible for a \$511 monthly allotment of Food Assistance Program (FAP) benefits as a household of three receiving a gross monthly income of \$██████████ and monthly medical expenses of \$1,465. Exhibit A, pp 46-51.

4. On June 23, 2015, the Department notified Petitioner that she was eligible for a \$511 monthly allotment of Food Assistance Program (FAP) benefits as a household of three receiving a gross monthly income of \$[REDACTED] and monthly medical expenses of \$1,465. Exhibit A, pp 52-55.
5. On June 13, 2016, the Department received Petitioner's Redetermination (DHS-1010) form and she did not report being responsible for any medical expenses. Exhibit A, p 71.
6. On June 16, 2016, the Department notified Petitioner that she was eligible for a \$121 monthly allotment of Food Assistance Program (FAP) benefits as a household of three receiving a gross monthly income of \$1,497 and no countable medical expenses. Exhibit A, pp 40-45.
7. Petitioner received FAP benefits totaling \$5,621 from August 1, 2015, through June 30, 2016. Exhibit A, pp 15-16.
8. On April 13, 2021, the Department sent Petitioner a Notice of Overissuance (DHS-4358) instructing her that she had received a \$4,268 overissuance of Food Assistance Program (FAP) benefits during the period of August 1, 2015, through June 30, 2016. Exhibit A, pp 8-13.
9. On June 30, 2021, the Department received Petitioner's request for a hearing protesting the recoupment of Food Assistance Program (FAP) benefits. Exhibit A, pp 5-6.

### **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.

An "overissuance" is an amount owed because of benefits that are overpaid, which the Department must establish and collect. 7 CFR 273.18(a). 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.

Petitioner was an ongoing FAP recipient as a household of three people in June of 2015, and she was receiving a \$511 monthly allotment of FAP benefits. The Department was applying a \$1,465 medical expense towards Petitioner's eligibility for FAP benefits as an ongoing monthly expense. The Department alleges that this was an error, because the \$1,565 expense deduction should have been applied only in the month that expenses was incurred, and not in each an every month after that.

Petitioner testified that her household did incur medical expenses in each month from August 1, 2015, through June 30, 2016, even if those expenses were not the \$1,465 expense that had been applied towards her eligibility for FAP benefits during that period.

The hearing record supports a finding that Petitioner did not report any medical expenses on her June 22, 2015, application for assistance, or Redetermination forms received by the Department on July 27, 2015, and June 13, 2016. Petitioner failed to offer any evidence supporting her claim that she reported out of pocket medical expenses in each month from August 1, 2015, through June 30, 2016. The Department's representative testified that there are no records of medical expenses receipts in Petitioner's case file showing medical expenses incurred in each month from August 1, 2015, through June 30, 2016.

The hearing record supports a finding that Petitioner received a \$511 monthly allotment of FAP benefits in each month from August 1, 2015, through June 30, 2016, and those benefits were based on her being responsible for medical expenses that she did not incur. The Department does not dispute that Petitioner was given a medical expenses deduction due to its own error and that those expenses should not have been applied towards Petitioner's eligibility for FAP benefits without proper verification documents.

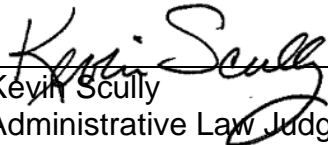
If the unverified medical expenses had not been applied towards Petitioner's eligibility for FAP benefits, she would have been eligible for FAP benefits totaling \$1,353 from August 1, 2015, through June 30, 2016. Therefore, Petitioner received a \$4,268 overissuance of FAP benefits, and the Department is required by federal regulations to recoup that debt.

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 \$4,268 overissuance of Food Assistance Program (FAP) benefits from August 1, 2015, through June 30, 2016, due to Department error.

**DECISION AND ORDER**

Accordingly, the Department's decision is AFFIRMED.

KS/nr

  
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Kevin Scully  
Administrative Law Judge  
Michigan Office of Administrative Hearings  
and Rules (MOAHR)

**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

Jackson County DHHS- via electronic mail

L. Bengel- via electronic mail

**DHHS**

Tamara Little  
301 E. Louis Glick Hwy.  
Jackson, MI 49201

**Petitioner**

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