



GRETCHEN WHITMER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ORLENE HAWKS  
DIRECTOR



Date Mailed: October 27, 2022  
MOAHR Docket No.: 22-004301  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Carmen G. Fahie**

### **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 October 20, 2022. The Petitioner represented herself. The Department of Health and Human Services (Department) was represented by Bernice Ray, Recoupment Specialist.

### **ISSUE**

Did the Department properly determine that the Petitioner received an overissuance of Food Assistance Program (FAP) benefits due to Department 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. The Petitioner was a recipient of FAP benefits. Department Exhibit 1, pgs. 6-17, and 24.
2. On March 15, 2019, the Petitioner reported the Social Security Retirement, Survivors and Disability Insurance (RSDI) income on the Change Report, DHS 2240. Department Exhibit 1, pgs. 22-23.
3. The Petitioner was a recipient of RSDI benefits with a first regular payment issued in April 2019. Department Exhibit 1, pgs. 18-21.
4. On August 2, 2022, the Department determined that the Petitioner had a FAP overissuance due to Agency error in the amount of \$354 from June 1, 2019, through July 31, 2019. Department Exhibit 1, pgs. 25-31.

5. On August 2, 2022, the Department sent Petitioner a notice that she had received an overissuance of FAP benefits due to Agency error in the amount of \$354 from June 1, 2019, through July 31, 2019. Department Exhibit 1, pgs. 32-37.
6. On August 16, 2022, the Department received a hearing request from the Petitioner, contesting the Department's negative action.

### **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, the Petitioner was a recipient of FAP benefits. Department Exhibit 1, pgs. 6-17, and 24. On March 15, 2019, the Petitioner reported the Social Security Retirement, Survivors and Disability Insurance (RSDI) income on the Change Report, DHS 2240. Department Exhibit 1, pgs. 22-23. The Petitioner was a recipient of RSDI benefits with a first regular payment issued in April 2019. Department Exhibit 1, pgs. 18-21. On August 2, 2022, the Department determined that the Petitioner had a FAP overissuance due to Agency error in the amount of \$354 from June 1, 2019, through July 31, 2019. Department Exhibit 1, pgs. 25-31. On August 2, 2022, the Department sent Petitioner a notice that she had received an overissuance of FAP benefits due to Agency error in the amount of \$354 from June 1, 2019, through July 31, 2019. Department Exhibit 1, pgs. 32-37. On August 16, 2022, the Department received a hearing request from the Petitioner, contesting the Department's negative action. BAM 105, 220, 600, 700, 705, and 725. BEM 500, 503, and 550.

During the hearing, the Petitioner stated that she timely reported the unearned income. The Department conceded that through Agency error that the unearned income was not budgeted in determining continued FAP eligibility even though it was reported timely. Since the overissuance is over \$250, the Department is required by Department policy to recoup the overissued benefits.

**BEM 705**

**AGENCY  
ERROR  
EXCEPTIONS**

**FIP, SDA, CDC and FAP**

Agency error overissuances are not pursued if the estimated amount is less than \$250 per program.

The Administrative Law Judge finds that the Department properly determined that the Petitioner had received an overissuance of FAP benefits due to Agency error. The Department is required to recoup the overissuance because it is over \$250 based on Department policy.

**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 that the Department was required to recoup the Agency error FAP overissuance in the amount of \$354 from June 1, 2019, through July 31, 2019.

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

CF/cc



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**Carmen G. Fahie**  
Administrative Law Judge

**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

**Via-Electronic Mail :**

**Interested Parties**

MDHHS-Manistee-Hearings  
MDHHS-Recoupment-Hearings  
BSC1-HearingDecisions  
D. Sweeney  
M. Holden  
MOAHR

**Via-First Class Mail :**

**Petitioner**

[REDACTED]  
[REDACTED] MI [REDACTED]