



GRETCHEN WHITMER  
GOVERNOR

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

ORLENE HAWKS  
DIRECTOR

[REDACTED]  
MI [REDACTED]

Date Mailed: December 15, 2022  
MOAHR Docket No.: 22-005206  
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 December 7, 2022. The Petitioner represented himself. The Department of Health and Human Services (Department) was represented by Jennifer Braxmaier, Recoupment Specialist.

### **ISSUE**

Did the Department properly determine that the Petitioner received an overissuance of Food Assistance Program (FAP) benefits that the Department is entitled to recoup due to Agency and 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. The Petitioner was a recipient of FAP benefits. Department Exhibit 1-2.
2. The Petitioner failed to report within 10 days as required by Department policy that he was employed and earning income from [REDACTED], which was revealed with a wage match for earned income from employment from October 22, 2021, through August 31, 2022. Department Exhibit 3.
3. The Department failed to timely act on a wage match hit for the Petitioner on June 16, 2022, making any overissuance of FAP due to Agency error after June 2022. Department Exhibit 3-4.

4. The Department determined that the Petitioner received a FAP overissuance in the amount of \$1,984 during the time period of July 1, 2022, through August 31, 2022, due to Agency error. Department Exhibit 5.
5. On October 25, 2022, the Department sent the Petitioner a Notice of Overissuance, DHS 4358, and a Department and Client Error Information and Repayment Agreement, DHS 4358C. Department Exhibit 6.
6. On November 3, 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 1-2. The Petitioner failed to report within 10 days as required by Department policy that he was employed and earning income from [REDACTED], which was revealed with a wage match for earned income from employment from October 22, 2021, through August 31, 2022. Department Exhibit 3. The Department failed to timely act on a wage match hit for the Petitioner on June 16, 2022, making any overissuance of FAP due to Agency error after June 2022. Department Exhibit 3-4.

The Department determined that the Petitioner received a FAP overissuance in the amount of \$1,984 during the time period of July 1, 2022, through August 31, 2022, due to Agency error. Department Exhibit 5. On October 25, 2022, the Department sent the Petitioner a Notice of Overissuance, DHS 4358, and a Department and Client Error Information and Repayment Agreement, DHS 4358C. Department Exhibit 6. On November 3, 2022, the Department received a hearing request from the Petitioner, contesting the Department's negative action.

The Department failed to timely act on the wage verification resulting in an Agency error from July 1, 2022, through August 31, 2022. The Petitioner did spend the overissued FAP benefits. As a result, the Petitioner received an overissuance of FAP benefits that he wasn't entitled to of a total of \$1,984 that the Department is required to recoup due to Agency error for the contested time period.

**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 Petitioner received an overissuance of FAP benefits in the amount of \$1,984 for the contested time period of July 1, 2022, through August 31, 2022, that the Department is required to recoup.

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-GR8North-Hearings  
MDHHS-Recoupment-Hearings  
BSC1-HearingDecisions  
D. Sweeney  
M. Holden  
MOAHR

**Via-First Class Mail :**

**Petitioner**

[REDACTED]  
[REDACTED]  
[REDACTED] MI [REDACTED]