



GRETCHEN WHITMER  
GOVERNOR

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

ORLENE HAWKS  
DIRECTOR

[REDACTED]  
[REDACTED]  
MI [REDACTED]

Date Mailed: December 29, 2022  
MOAHR Docket No.: 22-005504  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Zainab A. Baydoun**

### **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 21, 2022, from Detroit, Michigan. Petitioner appeared for the hearing and represented himself. The Department of Health and Human Services (Department) was represented by Minnie Egbuonu, Recoupment Specialist.

### **ISSUE**

Did Petitioner receive a client error and agency error overissuance (OI) of Food Assistance Program (FAP) benefits that the Department is entitled to 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. Petitioner was an ongoing recipient of FAP benefits.
2. On or around September 21, 2020, Petitioner submitted a redetermination for his FAP eligibility to be reviewed. On the redetermination, Petitioner reported that his household consisted of himself as the only household member, that he is not employed and does not have earnings from employment, and that he receives unearned income from Supplemental Security Income (SSI). On or around September 22, 2021, Petitioner submitted a redetermination and reported no changes with respect to his income. (Exhibit A, pp. 54-71)
3. Petitioner was approved for FAP benefits based on his receipt of only unearned income. (Exhibit A, pp. 15-16, 59-63)

4. The Department completed an Overissuance Referral, as it was discovered on or around August 7, 2022, through a Wage Match that Petitioner had unreported earnings starting in the first quarter of 2022 and the income had not been budgeted or considered for the household's FAP eligibility. (Exhibit A, p. 51-55, 72)
5. The Department obtained information from the Work Number showing that Petitioner became employed with Employer on January 14, 2022 and received his first paycheck on or around January 28, 2022. According to the Work Number, Petitioner continued to be employed and earning income through November 4, 2022. (Exhibit A, pp. 45-47)
6. On or around November 2, 2022, the Department sent Petitioner a Notice of Overissuance informing him that he received a client error caused OI of FAP benefits in the amount of \$1,659, for the period of April 1, 2022, through August 31, 2022, because he failed to timely report his employment with and income from Employer, which resulted in excess income and ineligibility for FAP benefits. (Exhibit A, pp. 8-13)
7. Because the Department failed to timely act on the August 7, 2022, Wage Match, and Petitioner continued to receive FAP benefits as a result, the Department determined that for the time period of September 1, 2022, through October 31, 2022, Petitioner received an agency error caused OI of FAP benefits.
8. On or around November 2, 2022, the Department sent Petitioner a Notice of Overissuance informing him that he received an agency error caused OI of FAP benefits in the amount of \$709, for the period of September 1, 2022, through October 31, 2022, because the Department became aware of Petitioner's employment with Employer on August 7, 2022, but failed to timely update the budget, resulting in Petitioner's excess income and ineligibility for FAP benefits. (Exhibit A, pp. 30-36)
9. On November 16, 2022, Petitioner requested a hearing disputing the Department's actions. (Exhibit A, pp. 3-6)

### **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) [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, on November 2, 2022, the Department sent Petitioner a Notice of Overissuance informing him that he received a client error caused OI of FAP benefits in the amount of \$1,659, for the period of April 1, 2022, through August 31, 2022, because he failed to timely report his employment with and income from Employer, which resulted in excess income and ineligibility for FAP benefits. (Exhibit A, pp. 8-13). On that same date, the Department sent Petitioner a Notice of Overissuance informing him that he received an agency error caused OI of FAP benefits in the amount of \$709, for the period of September 1, 2022, through October 31, 2022, because the Department became aware of Petitioner's employment with Employer on August 7, 2022, but failed to timely update the budget, resulting in Petitioner's excess income and ineligibility for FAP benefits. (Exhibit A, pp. 30-36)

Clients must report changes in circumstances that potentially affect eligibility or benefit amount. Changes such as starting or stopping employment, earning income, and starting or stopping a source of unearned income must be reported within ten days of receiving the first payment reflecting the change. BAM 105 (July 2020), pp. 9-12; 7 CFR 273.12(a)(1); 7 CFR 273.21. Additionally, when a client group receives more benefits than they are entitled to receive, the Department must attempt to recoup the overissuance. BAM 700 (October 2018), p. 1. A client error OI occurs when the client received more benefits than they were entitled to because the client gave incorrect or inaccurate information to the Department. BAM 700, pp. 4-6. An agency error OI is caused by incorrect actions by the Department, including delayed or no action, which result in the client receiving more benefits than they were entitled to receive. BAM 700, pp. 4-6. The amount of the overissuance is the benefit amount the group actually received minus the amount the group was eligible to receive. BAM 715 (October 2017), p. 6; BAM 705 (October 2018), p. 6.

In this case, the Department representative asserted that Petitioner failed to timely report his income and employment with Employer within 10 days of receiving his first paycheck. The Department representative testified that in August 2022, the Department became aware through a Wage Match that Petitioner had been receiving income from employment beginning the first quarter of 2022. The Department representative testified that it verified Petitioner's income and employment through the Work Number, which confirmed that Petitioner began employment on January 14, 2022, and received his first paycheck on January 28, 2022. Because the Department had no record of Petitioner timely reporting his income, the Department testified that the OI in this case for the period prior to the August 2022 Wage Match report was due to client error, and for the months of September 2022 and October 2022, the OI was a result of agency error. Petitioner disputed the Department's testimony and testified that he informed the Department of his employment and earnings in April 2022, after completion of his three-month probationary period. Petitioner confirmed that for the first three months of his employment, he did not report his earnings but testified that after 90 days, he called his caseworker and verbally reported his employment. Petitioner asserted that he did not

receive any return phone call. Petitioner further testified that in April 2022 he submitted a letter notifying the Department of his employment and he submitted the letter to the drop box at the Department's local office. Petitioner confirmed that he did not make any other attempts to submit documentation of his income and employment. While Petitioner asserted that the Department failed to include any records or contacts from his current caseworker, there was no evidence of a completed change report, pay stubs, or other documentation supporting Petitioner's testimony presented for review during the hearing.

Due to the COVID-19 pandemic, the federal government authorized the State of Michigan to issue Emergency Allotments (EA) to all FAP households, meaning that FAP households not receiving the maximum benefit for their group size would receive a supplement to bring their benefit amount to the maximum for their group size. ESA Memo 2020-15 (March 2020). The State of Michigan issued EA from April 2020 to October 2022. ESA Memo 2022-39 (January 2022). COVID-19 EA were approved for every month during the alleged OI period of April 2022 to October 2022 period. In addition, beginning in May 2021, MDHHS began issuing a minimum \$95 supplement to all FAP households, including households that were already receiving the maximum allotment for their household size. ESA Memo 2021-22 (May 2021). Wrongfully-issued EA are recoupable by MDHHS if the FAP household is not eligible for any FAP benefits during the month at issue.

The Department presented a benefit summary inquiry to establish that during the period between April 2022 and August 2022 it issued \$1,659 in recoupable FAP benefits to Petitioner and from September 2022 to October 2022, it issued \$709 in recoupable FAP benefits to Petitioner. (Exhibit A, p. 15-16, 37). The benefit summary inquiry shows that the months in the OI period (April 2022 to October 2022) include an ongoing monthly payment and one supplemental \$95 payment. The Department representative explained that in calculating the OI, it considered the ongoing monthly allotment issued to Petitioner and the \$95 EA supplements referenced above. The Department asserted that during the OI period, Petitioner was eligible for \$0 in FAP benefits.

In support of its OI case, the Department presented the Work Number, verifying that Petitioner had earnings from Employer beginning on or around January 28, 2022. It was also established that in consideration of Petitioner's first pay date, the Department properly determined that the first month in the OI period would be April 2022, as the Department is to apply the 10-day client reporting period, the 10-day processing period, and the 12-day negative action suspense period. The Department also presented FAP OI budgets for each month in the overissuance period showing how Petitioner's earned income was calculated each month and how the total OI amount was determined. The Recoupment Specialist testified that no changes were made to the budgets other than the inclusion of the earned income.

Upon review, after including Petitioner's unreported earned income in the calculation of Petitioner's household FAP eligibility, Petitioner's group was eligible to receive \$0, in FAP benefits during the period of April 2022 through October 2022, as Petitioner's net

income exceeded the income limit based on his one-person group size. (Exhibit A, pp. 20-28, 41-44).

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 established a client error OI of FAP benefits in the amount of \$1,659 from April 2022 to August 2022 and an agency error OI of FAP benefits in the amount of \$709 from September 2022 to October 2022.

**DECISION AND ORDER**

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

The Department is ORDERED to initiate recoupment and/or collection procedures for a \$1,659 client error FAP OI and \$709 agency error FAP OI in accordance with Department policy, less any amount that has already been recouped/collected.

ZB/ml

  
\_\_\_\_\_  
**Zainab A. Baydoun**  
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 :**

**DHHS**

Richard Latimore  
Wayne-Conner-DHHS  
4733 Conner  
Detroit, MI 48215

**MDHHS-Wayne-57-Hearings@michigan.gov**

**DHHS Department Rep.**

Overpayment Research and Verification (ORV)  
235 S Grand Ave  
Lansing, MI 48909

**MDHHS-RECOUPMENT-HEARINGS@Michigan.gov**

**Interested Parties**

BSC4  
M Holden  
D Sweeney  
MOAHR

**Via First Class Mail :**

**Petitioner**

██████████  
████████████████████  
██████████ MI ██████████