



GRETCHEN WHITMER  
GOVERNOR

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

ORLENE HAWKS  
DIRECTOR

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

Date Mailed: January 27, 2023  
MOAHR Docket No.: 22-005898  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Colleen Lack**

### **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 January 17, 2023, from Lansing, Michigan. [REDACTED] the Petitioner appeared on his own behalf. [REDACTED], Wife, appeared as a witness for Petitioner. The Department of Health and Human Services (Department) was represented by Jody Anderson, Recoupment Specialist.

During the hearing proceeding, the Department's Hearing Summary packet was admitted as Exhibit A, pp. 1-63.

### **ISSUE**

Did the Department properly determine that Petitioner received Food Assistance Program (FAP) benefits that he was not eligible for and must be recouped?

### **FINDINGS OF FACT**

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. From May 1, 2022 to August 31, 2022, Petitioner received FAP benefits in the amount of \$658.00 per month. (Exhibit A, pp. 13-14)
2. On January 5, 2022, a Notice of Case Action was issued to Petitioner approving FAP for a household size of two for January 2022 and for a household size of three effective February 1, 2022. Petitioner's wife J.M. was added to the FAP group. A budget summary was included showing no earned income was included in the FAP budget. Petitioner was reminded of the responsibility to report changes, including changes with income within 10 days. (Exhibit A, pp. 45-49)

3. Petitioner's wife had four different jobs during the first quarter of 2022. (Exhibit A, pp. 3 and 36)
4. A report from The Work Number shows Petitioner's wife was hired by [REDACTED] January 6, 2022 and her earnings through February 4, 2022 were verified. (Exhibit A, pp. 25-26)
5. A report from The Work Number shows Petitioner's wife was hired by [REDACTED] March 14, 2022 and her earnings through August 12, 2022 were verified. (Exhibit A, pp. 27-28)
6. The Department verified household income from Social Security Administration (SSA) issued benefits. (Exhibit A, pp. 29-34)
7. On July 19, 2022, Petitioner completed a Redetermination and reported his wife had income from employment. (Exhibit A, pp. 40-44)
8. The Department determined that Petitioner was overissued FAP benefits from May 1, 2022 through August 31, 2022 due to the Petitioner's failure to report his wife's income from [REDACTED] (Exhibit A, pp. 15-23)
9. On August 16, 2022, the Department sent Petitioner a Notice of Overissuance instructing him that a \$2,632.00 overissuance of FAP benefits occurred from May 1, 2022 to August 31, 2022 due to client error and would be recouped. (Exhibit A, pp. 7-12)
10. On December 13, 2022, the Department received Petitioner's request for a hearing protesting the recoupment of FAP benefits. (Exhibit A, p. 5)

### **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.

Pursuant to BAM 105, clients have a responsibility to cooperate with the Department in determining initial and ongoing eligibility. Clients must completely and truthfully answer all questions on forms and in interviews. BAM 105, October 1, 2021, p. 9. Clients must

also report changes in circumstance that potentially affect eligibility or benefit amount within 10 days. This includes any changes with assets. (BAM 105, pp. 11-13)

For FAP, the Department will act on a change reported by means other than a tape match within 10 days of becoming aware of the change. BAM 220, November 1, 2021, p. 7. A pending negative action occurs when a negative action requires timely notice based on the eligibility rules in this item. Timely notice means that the action taken by the department is effective at least 12 calendar days following the date of the department's action. BAM 220, p. 13.

When a client group receives more benefits than it is entitled to receive, the Department must attempt to recoup the overissuance. BAM 700, October 1, 2018, p. 1. An agency error is caused by incorrect action (including delayed or no action) by MDHHS staff or department processes, such as when available information was not used. Agency errors are not pursued if the estimated amount is less than \$250 per program. BAM 700, p. 5. 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 p. 7.

In this case, the Department determined that a FAP client error overissuance occurred from May 1, 2022 through August 31, 2022 due to the Petitioner's failure to report his wife's income. (Exhibit A, pp. 15-23) Petitioner's wife had four different jobs during the first quarter of 2022. (Exhibit A, pp. 3 and 36) However, the only overissuance was caused by the failure to report the income from [REDACTED] (Exhibit A, pp. 3 and 15-23) A report from The Work Number shows Petitioner's wife was hired by [REDACTED] March 14, 2022 and her earnings through August 12, 2022 were verified. (Exhibit A, pp. 27-28) The Department also verified household income from SSA issued benefits. (Exhibit A, pp. 29-34) The Department determined that Petitioner's household was overissued FAP benefits from May 1, 2022 through August 31, 2022 due to the Petitioner's failure to report his wife's income from [REDACTED] (Exhibit A, pp. 15-23)

Petitioner testified that after they were married, his wife submitted verification to the Department and asked if there was anything else they needed to do. At that time, they were told there was nothing else they needed to do until it was time for the six-month review. (Petitioner Testimony) If Petitioner's wife did not have employment income at the time verification of the marriage was provided, there would have been nothing further to provide at that time. However, the January 5, 2022, Notice of Case Action reminded Petitioner of the responsibility to report changes, including changes with income within 10 days. That was the notice approving FAP for the household size of three effective February 1, 2022, when Petitioner's wife J.M. was added to the FAP group. The included budget summary showed no earned income was included in the FAP budget at that time. (Exhibit A, pp. 45-49) Petitioner should have reported the increase in household within 10 days.

The above cited BAM 700 policy requires the Department to recoup the overissuance when a client group receives more benefits than it is entitled to receive. This includes

overissuances caused by either agency errors or client errors when the amount is at least \$250 per program.

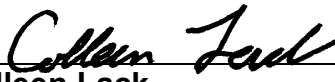
Overall, the evidence supports the Department's determination that Petitioner received an overissuance of FAP benefits from May 1, 2022 through August 31, 2022 due to the Petitioner's failure to report his wife's income from [REDACTED] (Exhibit A, pp. 15-23) The Department properly sought recoupment of a \$2,632.00 overissuance of FAP benefits from Petitioner.

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 the \$2,632.00 overissuance of FAP benefits from May 1, 2022 through August 31, 2022 due to client error, which must be recouped.

**DECISION AND ORDER**

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

CL/ml

  
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Colleen Lack  
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**

Angela Neubecker  
Ogemaw County DHHS  
444 E. Houghton  
West Branch, MI 48661

**MDHHS-GR8North-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**

M Holden  
D Sweeney  
MOAHR

**Via First Class Mail :**

**Petitioner**

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