



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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Date Mailed: March 17, 2023  
MOAHR Docket No.: 23-000716  
Agency No.: ██████████  
Petitioner: ██████████

**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 ██████████ 2023, from Lansing, Michigan. ██████████ the Petitioner, appeared on her own behalf. The Department of Health and Human Services (Department) was represented by Eugene Brown, Recoupment Specialist.

During the hearing proceeding, the Department's Hearing Summary packet was admitted as Exhibit A, pp. 1-70.

**ISSUE**

Did the Department properly determine that Petitioner received Food Assistance Program (FAP) benefits that she 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 ██████████, 2022 to ██████████ 2022, Petitioner received FAP benefits totaling \$5,788.00. (Exhibit A, pp. 7 and 19-20)
2. On ██████████ 2021, Petitioner submitted an Assistance Application for FAP, healthcare, and state emergency relief for the household of four, including Petitioner's daughter ██████████ (Exhibit A, pp. 56-65)
3. On ██████████ 2021, a Notice of Case Action was issued to Petitioner approving FAP for a household size of four. A budget summary was included

showing earned income of [REDACTED] was included in the FAP budget. (Exhibit A, pp. 21-26)

4. The December 2, 2021, Notice of Case Action reminded Respondent of the responsibility to report changes. Specifically, Respondent was a simplified reporter and was only required to report when the household gross monthly income exceeded \$2,871.00. A change in income over this amount was to be reported by the 10<sup>th</sup> day of the following month. A Simplified Six Month Review explained the simplified reporting process. (Exhibit A, pp. 21-28)
5. On [REDACTED] 2022, a New Hire Client Notice was issued to Petitioner requesting verification of household member [REDACTED] employment with [REDACTED] by a due date of [REDACTED] 2022. (Exhibit A, pp. 29-31)
6. On [REDACTED] 2022, a Notice of Case Action was issued to Petitioner approving FAP for a household size of four. A budget summary was included showing earned income of [REDACTED] was included in the FAP budget. (Exhibit A, pp. 32-36)
7. The April 20, 2022, Notice of Case Action reminded Respondent of the responsibility to report changes. Specifically, Respondent was a simplified reporter and was only required to report when the household gross monthly income exceeded \$2,871.00. A change in income over this amount was to be reported by the 10<sup>th</sup> day of the following month. A Simplified Six Month Review explained the simplified reporting process. (Exhibit A, pp. 32-38)
8. On [REDACTED] 2022, Petitioner submitted a Renew Benefits for the household of four. (Exhibit A, pp. 66-67)
9. On September 6, 2022, a Redetermination form was sent to Petitioner with a due date of September 26, 2022. An Appointment was also scheduled for October 3, 2022. (Exhibit A, pp. 39-45)
10. On October 3, 2022, a Notice of Missed Appointment was issued to Petitioner letting Petitioner know it was her responsibility to reschedule the interview and/or return the redetermination packet before October 31, 2022. (Exhibit A, p. 46)
11. On October 25, 2022, a Notice of Case Action was issued to Petitioner indicating household member [REDACTED] was registered for work due to participation in FAP. A budget summary was included showing earned income of [REDACTED] was included in the FAP budget. (Exhibit A, pp. 47-51)
12. The October 25, 2022, Notice of Case Action reminded Respondent of the responsibility to report changes. Specifically, Respondent was a simplified reporter and was only required to report when the household gross monthly income exceeded \$3,007.00. A change in income over this amount was to be reported by the 10<sup>th</sup> day of the following month. A Simplified Six Month Review explained the simplified reporting process. (Exhibit A, pp. 47-53)

13. A Report from the Work Number documented household member [REDACTED] employment with [REDACTED] from [REDACTED] 2022 to [REDACTED] 2022. (Exhibit A, pp. 54-55)
14. A Report from the Work Number documented Respondent's employment with [REDACTED] since [REDACTED] 2022. (Exhibit A, pp. 69-70)
15. The Department determined that Petitioner was overissued FAP benefits from [REDACTED] 2022 to [REDACTED], 2022 due to the Department failure to address that Petitioner did not return the New Hire Client Notice by the [REDACTED], 2022 due date. (Exhibit A, pp. 1 and 7-9)
16. On November 3, 2022, the Department sent Petitioner a Notice of Overissuance instructing her that a [REDACTED] overissuance of FAP benefits occurred from [REDACTED] 2022 to [REDACTED] 2022 due to agency error and would be recouped. (Exhibit A, pp. 10-15)
17. On February 3, 2022, the Department received Petitioner's request for a hearing protesting the recoupment of FAP benefits. (Exhibit A, pp. 4-5)

### **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. This includes completion of necessary forms. Clients must completely and truthfully answer all questions on forms and in interviews. BAM 105, April 1, 2022, 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, April 1, 2022, p. 7. A pended 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 agency error overissuance occurred from May 1, 2022 to October 31, 2022 due to the Department failure to address that Petitioner did not return the New Hire Client Notice by the April 8, 2022 due date. (Exhibit A, pp. 1 and 7-9).

On November 5, 2021, Petitioner submitted an Assistance Application for FAP, healthcare, and state emergency relief for the household of four, including Petitioner's daughter B.G. (Exhibit A, pp. 56-65).

On December 2, 2021, a Notice of Case Action was issued to Petitioner approving FAP for a household size of four. A budget summary was included showing earned income of [REDACTED] was included in the FAP budget. (Exhibit A, pp. 21-26). The December 2, 2021, Notice of Case Action reminded Respondent of the responsibility to report changes. Specifically, Respondent was a simplified reporter and was only required to report when the household gross monthly income exceeded \$2,871.00. A change in income over this amount was to be reported by the 10<sup>th</sup> day of the following month. A Simplified Six Month Review explained the simplified reporting process. (Exhibit A, pp. 21-28).

On March 29, 2022, a New Hire Client Notice was issued to Petitioner requesting verification of household member [REDACTED] employment with [REDACTED] by a due date of April 8, 2022. (Exhibit A, pp. 29-31).

The Department asserts that the New Hire Client Notice was not returned. However, the Department erred by continuing to process Petitioner's FAP case. On April 20, 2022, a Notice of Case Action was issued to Petitioner approving FAP for a household size of four. A budget summary was included showing earned income of [REDACTED] was included in the FAP budget. (Exhibit A, pp. 32-36). The April 20, 2022, Notice of Case Action reminded Respondent of the responsibility to report changes. Specifically, Respondent was a simplified reporter and was only required to report when the household gross monthly income exceeded \$2,871.00. A change in income over this amount was to be reported by the 10<sup>th</sup> day of the following month. A Simplified Six Month Review explained the simplified reporting process. (Exhibit A, pp. 32-38). On April 30, 2022, Petitioner submitted a Renew Benefits for the household of four. (Exhibit A, pp. 66-67). On September 6, 2022, a Redetermination form was sent to Petitioner with a due date

of September 26, 2022. An Appointment was also scheduled for October 3, 2022. (Exhibit A, pp. 39-45). On October 3, 2022, a Notice of Missed Appointment was issued to Petitioner letting Petitioner know it was her responsibility to reschedule the interview and/or return the redetermination packet before October 31, 2022. (Exhibit A, p. 46). On October 25, 2022, a Notice of Case Action was issued to Petitioner indicating household member J.G. was registered for work due to participation in FAP. A budget summary was included showing earned income of [REDACTED] was included in the FAP budget. (Exhibit A, pp. 47-51). The October 25, 2022, Notice of Case Action reminded Respondent of the responsibility to report changes. Specifically, Respondent was a simplified reporter and was only required to report when the household gross monthly income exceeded \$3,007.00. A change in income over this amount was to be reported by the 10<sup>th</sup> day of the following month. A Simplified Six Month Review explained the simplified reporting process. (Exhibit A, pp. 47-53).

A Report from the Work Number documented household member [REDACTED] employment with [REDACTED] from February 9, 2022 to August 5, 2022. (Exhibit A, pp. 54-55). A Report from the Work Number documented Respondent's employment with USIC since April 11, 2022. (Exhibit A, pp. 69-70).

The Department determined that Petitioner was overissued FAP benefits from [REDACTED] 2022 to [REDACTED] 2022 due to the Department failure to address that Petitioner did not return the New Hire Client Notice by the April 8, 2022 due date. (Exhibit A, pp. 1 and 7-9). On November 3, 2022, the Department sent Petitioner a Notice of Overissuance instructing her that a [REDACTED] overissuance of FAP benefits occurred from May 1, 2022 to October 31, 2022 due to agency error and would be recouped. (Exhibit A, pp. 10-15).

Petitioner indicated she told her daughter to send the New Hire Client Notice to the Department, but she does not see it in her MiBridges account. Petitioner was unaware that her daughter had not returned it. Petitioner's daughter has since moved out. It will be a real hardship for Petitioner to repay the overissuance. (Petitioner Testimony).

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 agency 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 [REDACTED] 2022 to [REDACTED] 2022 due to the Department failure to address that Petitioner did not return the New Hire Client Notice by the April 8, 2022 due date. The Department properly sought recoupment of a [REDACTED] 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 [REDACTED] overissuance of FAP benefits from [REDACTED] 2022 to [REDACTED] 2022 due to agency 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**  
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**Interested Parties**  
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M Holden  
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**Via First Class Mail :**

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