



GRETCHEN WHITMER  
GOVERNOR

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

ORLENE HAWKS  
DIRECTOR

[REDACTED]  
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[REDACTED] MI [REDACTED]

Date Mailed: April 6, 2023  
MOAHR Docket No.: 23-001168  
and 23-001285  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Ellen McLemore**

### **HEARING DECISION**

Following Petitioner's request for a hearing, this matter is before the undersigned Administrative Law Judge (ALJ) 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 April 5, 2023, via conference line. Petitioner was present with his Arab Community Center for Economic and Social Services (ACCESS) case worker, Munai Newash. The Department of Health and Human Services (Department) was represented by Lori Turner, Eligibility Specialist. Also present was Pashtu interpreter, Pakiza Arian.

### **PROCEDURAL HISTORY**

On February 21, 2023, Petitioner submitted a request for hearing to the Department, disputing the Department's actions with respect to his Family Independence Program (FIP) benefit case. On March 7, 2023, the Michigan Office of Administrative Hearings and Rules (MOAHR) received Petitioner's February 21, 2023 Request for Hearing, along with the Department's Hearing Summary and supporting documents. On March 14, 2023, MOAHR issued a Notice of Hearing, scheduling the matter under case number 23-001168, for a hearing to be held on March 30, 2023. On March 14, 2023, MOAHR received a duplicate hearing packet, with Petitioner's February 21, 2023 Request for Hearing. On March 16, 2023, MOAHR issued a Notice of Hearing scheduling the duplicate hearing request for a hearing on April 5, 2023, under case number 23-001285. At the hearing scheduled on March 30, 2023, the originally assigned ALJ determined that Petitioner had two separate MOAHR case numbers for the same February 21, 2023 Request for Hearing. The ALJ also determined that Petitioner would need a Pashtu interpreter. As a result, the hearing for case number 23-001168 was adjourned, to be combined with case number 23-001285, scheduled on April 5, 2023.

### **ISSUE**

Did the Department properly close Petitioner's FIP benefit case?

Did Petitioner receive an overissuance of FIP 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 FIP recipient.
2. On November 17, 2022, the Department sent Petitioner a Notice of Case Action informing him that his FIP benefit case was closing effective December 1, 2022, ongoing, for exceeding the income limit for his group size (Exhibit A, pp. 6-10).
3. On February 2, 2023, the Department sent Petitioner a Notice of Overissuance informing him that he was overissued FIP benefits in the amount of \$11,097 during the period of July 1, 2022, through September 30, 2022 (Exhibit A, pp. 18-23).
4. On February 2, 2023, Petitioner submitted a request for hearing disputing the Department's actions.

### **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 Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Department of Human Services) administers FIP pursuant to 45 CFR 233-260, MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3101-.3131.

In this case, the Department testified that Petitioner received an overissuance of FIP benefits during the period of July 1, 2022, through September 30, 2022, in the amount of \$11,097. The Department testified that Petitioner began employment on April 2, 2022, but did not report the income until August 2022, resulting in an overissuance of FIP benefits, as a result of a client error.

When a client group receives more benefits that it is entitled to receive, the Department must attempt to recoup the overissuance. BAM 700 (October 2016), p. 1. 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. 6. An agency error is caused by incorrect action by the Department staff or department processes. BAM 700, p. 4. The amount of the overissuance is the benefit amount the group actually received minus the amount the group was eligible to receive. BAM 705 (January 2016), p. 6. Agency errors are not pursued if the estimated amount is less than \$250 per program. BAM 700, p. 5.

At the hearing, the only evidence presented to establish that Petitioner was overissued FIP benefits was the Notice of Overissuance issued on February 3, 2023, and two Notices of Case Action issued on November 17, 2022, and November 22, 2022 (Exhibit A, pp. 6-23). Also, the individual that testified at the hearing was not the Department worker that processed Petitioner's FIP eligibility or the overissuance. The individual present was unsure as to how the Department determined Petitioner's FIP overissuance amount. The Department did not present Petitioner's income records during the overissuance period, to determine his FIP eligibility, his benefit issuance summary to show that he was actually issued FIP benefits, or any evidence that Petitioner failed to report his income. Additionally, according to the Notice of Overissuance, Petitioner was issued \$9,113 in FIP benefits during the month of September 2022. Petitioner testified that the Department notified him that payment was returned to the Department. Due to the lack of evidence, the Department failed to establish that Petitioner was overissued FIP benefits in the amount of \$11,097, during the period of July 1, 2022, through September 30, 2022.

The Department also testified that it closed Petitioner's FIP benefit case effective December 1, 2022, as his income exceeded the limit for his group size.

To determine the amount of FIP benefits a client is eligible to receive, income received by the certified FIP group is subtracted from the payment standard, which is the maximum benefit amount that can be received by the certified group. BEM 515 (October 2015), p. 1; BEM 518 (October 2015), p. 1. The payment standard is dependent on the client's FIP certified group size. BEM 515, p. 3

For ongoing FIP recipients, the Department applies the issuance deficit test to determine whether the client is eligible for FIP and the amount of the FIP grant. The issuance deficit test compares (i) the group's budgetable income for the income month decreased by the issuance earned income disregard to (ii) the certified group's payment standard for the benefit month. BEM 518, p. 4. The issuance earned income disregard reduces each person's countable earnings by \$200 and then by an additional 50% of the person's remaining earnings. BEM 518, p. 6. If the issuance deficit test results in no deficit or a deficit of less than \$10, the client is ineligible for FIP for the benefit month. BEM 518, p. 4.

As stated above, the Department did not present any evidence as to how it calculated Petitioner's income. Therefore, the Department failed to establish that Petitioner was ineligible for FIP benefits. As it follows, the Department failed to establish it properly closed Petitioner's FIP benefit case.

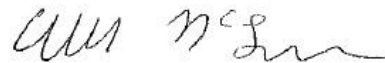
**DECISION AND ORDER**

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it determined Petitioner was overissued FIP benefits and closed his FIP benefit case.

Accordingly, the Department's decisions are **REVERSED**.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Redetermine Petitioner's FIP eligibility as of December 1, 2022, ongoing;
2. If Petitioner is eligible for FIP benefits, issue supplements he is entitled to receive;
3. Notify Petitioner of its FIP decision in writing;
4. Petitioner did not receive an overissuance of FIP benefits in the amount of \$11,097; and
5. Delete the FIP overissuance and cease any recoupment and/or collection action.



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**Ellen McLemore**  
Administrative Law Judge

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**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**

B. Sanborn  
BSC4

**Via-First Class Mail :**

**Petitioner**

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