



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: April 14, 2023  
MOAHR Docket No.: 23-001279  
Agency No.: ██████████  
Petitioner: ██████████

**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 April 5, 2023. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by Dawn McKay, Recoupment Specialist. The Department submitted Department Exhibit, pgs. 1-32, that was admitted and made a part of the record.

### **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 error?

### **FINDINGS OF FACT**

1. The Petitioner was a recipient of FAP benefits.
2. On ██████████ 2017, the Petitioner called her Department Caseworker to report that her daughter, █, had received her first Social Security RSDI payment on ██████████ 2017, which was a lump sum payment that included the current month's payment of ██████████
3. The Department Caseworker failed to budget the RSDI income resulting in an overissuance of FAP benefits due to Agency error.
4. The Department determined that the Petitioner received a FAP overissuance in the amount of \$763 during the time period of September 1, 2017, through October 31, 2017, due to Agency error.

5. On December 27, 2022, the Department sent the Petitioner a Notice of Overissuance, DHS 4358 and a Department and Client Error Information and Repayment Agreement, DHS 4358C.
6. On February 27, 2023, 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. On [REDACTED] 2017, the Petitioner called her Department Caseworker to report that her daughter, [REDACTED], had received her first Social Security RSDI payment on [REDACTED] 2017, which was a lump sum payment that included the current month's payment of [REDACTED]. The Department Caseworker failed to budget the RSDI income resulting in an overissuance of FAP benefits due to Agency error.

The Department determined that the Petitioner received a FAP overissuance in the amount of \$763 during the time period of September 1, 2017, through October 31, 2017, due to Agency error. On December 27, 2022, the Department sent the Petitioner a Notice of Overissuance, DHS 4358 and a Department and Client Error Information and Repayment Agreement, DHS 4358C. On February 27, 2023, the Department received a hearing request from the Petitioner, contesting the Department's negative action. BAM 100. BEM 400 and 403.

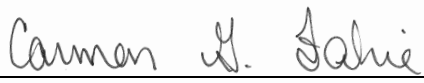
The Recoupment Specialist stated that the Petitioner did report the RSDI income, but the Department Caseworker failed to budget it in determining FAP eligibility resulting in an overissuance of FAP benefits. The Agency error FAP overissuance was from September 1, 2017, through October 31, 2017. The Petitioner did spend the over issued FAP benefits. As a result, the Petitioner received an overissuance of FAP benefits in the amount of \$763 that she wasn't entitled to 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 a FAP benefit overissuance due to Agency error in the amount of \$763 for the contested time period of September 1, 2017, through October 31, 2017, that the Department is required to recoup.

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

CF/tlf

  
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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 :**

**DHHS**  
Jamie Dent  
Grand Traverse/Leelanau County  
DHHS  
701 S. Elmwood Suite 19  
Traverse City, MI 49684  
**MDHHS-GrandTraverse-  
Hearings@michigan.gov**

**DHHS Department Rep.**  
Overpayment Research and  
Verification (ORV)  
235 S Grand Ave  
Lansing, MI 48909  
**MDHHS-RECOUPMENT-  
HEARINGS@Michigan.gov**

**Via-First Class Mail :**

**Petitioner**

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