



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: June 16, 2023  
MOAHR Docket No.: 23-002509/23-002511  
Agency No.: [REDACTED]  
Petitioner: [REDACTED] [REDACTED]

**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 June 6, 2023. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by Rebecca Webber, Recoupment Specialist. The Department submitted Department Exhibit, pgs. 1-54, and Department Exhibit 1, pgs. 1-45, 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 and Client error?

**FINDINGS OF FACT**

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

1. The Petitioner was a recipient of FAP benefits.
2. On July 20, 2018, the Recoupment Specialist got an Overissuance Referral, DHS 4701, of the Petitioner having unreported earnings from July 2017 to June 2018 due to unreported earnings for [REDACTED] [REDACTED] from June 2017 to present from [REDACTED] [REDACTED]
3. The Petitioner failed to report within 10 days as required by Department policy that her significant other was employed and earning income from June 2017 to present from [REDACTED] [REDACTED]

4. The Department determined that the Petitioner received a FAP overissuance in the amount of \$2,520 during the time period of October 1, 2017, through February 28, 2018, due to Client error.
5. An Agency error occurred at the Petitioner's Redetermination Application submitted on February 28, 2018, because the Petitioner failed to report that her significant other was employed and earning income even though Department Caseworker ran the consolidated inquiry on February 28, 2018, that showed the earned income from [REDACTED] [REDACTED] for the 3<sup>rd</sup> and 4<sup>th</sup> quarters of 2017 where FAP benefits were issued without the required income verification.
6. The Department determined that the Petitioner received a FAP overissuance in the amount of \$1,512 during the time period of April 1, 2018, through June 30, 2018, due to Agency error.
7. The overissuance was due to Client and Agency error.
8. On April 12, 2023, the Department sent the Petitioner a Notice of Overissuance, DHS 4358, and a Department and Client Error Information and Repayment Agreement, DHS 4358C due to Client Error.
9. On April 12, 2023, the Department sent the Petitioner a Notice of Overissuance, DHS 4358, and a Department and Client Error Information and Repayment Agreement, DHS 4358C due to Agency Error
10. On April 26, 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 July 20, 2018, the Recoupment Specialist got an Overissuance Referral, DHS 4701, of the Petitioner having unreported earnings from July 2017 to June 2018 due to unreported earnings for [REDACTED] [REDACTED] from June 2017 to present from [REDACTED] [REDACTED]. The Petitioner failed to

report within 10 days as required by Department policy that her significant other was employed and earning income from June 2017 to present from [REDACTED] [REDACTED]. The Department determined that the Petitioner received a FAP overissuance in the amount of \$2,520 during the time period of October 1, 2017, through February 28, 2018, due to Client error.

An Agency error occurred at the Petitioner's Redetermination Application submitted on February 28, 2018, because the Petitioner failed to report that her significant other was employed and earning income even though Department Caseworker ran the consolidated inquiry on February 28, 2018, that showed the earned income from [REDACTED] [REDACTED] for the 3<sup>rd</sup> and 4<sup>th</sup> quarters of 2017 where FAP benefits were issued without the required income verification. The Department determined that the Petitioner received a FAP overissuance in the amount of \$1,512 during the time period of April 1, 2018, through June 30, 2018, due to Agency error.

The overissuance was due to Client and Agency error. On April 12, 2023, the Department sent the Petitioner a Notice of Overissuance, DHS 4358, and a Department and Client Error Information and Repayment Agreement, DHS 4358C due to Client Error. On April 12, 2023, the Department sent the Petitioner a Notice of Overissuance, DHS 4358, and a Department and Client Error Information and Repayment Agreement, DHS 4358C due to Agency Error. On April 26, 2023, the Department received a hearing request from the Petitioner, contesting the Department's negative action. BAM 105, 110, 115, 200, 220, 600, 700-725, and 802. BEM 212, 220, and 500 series.

During the hearing, the Petitioner stated that she told the Department Caseworker that her significant other was employed and earning income, but he was not forthcoming about his earned. The Department Caseworker said that she would look it up and use the information available on the system. The record reflects that the Department Caseworker ran the consolidated inquiry on February 28, 2018, that showed the earned income from [REDACTED] [REDACTED] for the 3<sup>rd</sup> and 4<sup>th</sup> quarters of 2017. However, the Petitioner did not report earned income on her Redetermination Application as required by Department policy resulting in Client error. The Department Caseworker did do a consolidated query on February 28, 2018, but failed to verify and budget the earned income resulting in Agency error. The Petitioner received an overissuance of FAP benefits that she has to repay.

The Recoupment Specialist stated that the Petitioner did not report that her significant other was employed and earning income from June 2017 ongoing during the contested time period from [REDACTED] [REDACTED] within 10 days as required by Department policy. The client error FAP overissuance was from October 1, 2017, through February 28, 2018, for \$2,520. The Department failed to timely act on the consolidated inquiry resulting in an Agency error from April 1, 2018, through June 30, 2018, for \$1,512. The Petitioner did spend the over issued FAP benefits. As a result, the Petitioner received an overissuance of FAP benefits that she wasn't entitled to of a total of \$4,032 that the Department is required to recoup due to Agency and Client 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 an overissuance of FAP benefits in the amount of \$4,032 for the contested time period of October 1, 2017, through February 28, 2018 and April 1, 2018, through June 30, 2018 that the Department is required to recoup.

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



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**Carmen G. Fahie**  
Administrative Law Judge  
for Elizabeth Hertel, Director  
Department of Health and Human Services

**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**

Gary Leathorn - 74  
St Clair County DHHS  
220 Fort St.  
Port Huron, MI 48060  
**MDHHS-STCLAIR-  
HEARINGS@michigan.gov**

**Interested Parties**

St. Clair County DHHS  
MDHHS Recoupment  
N. Stebbins  
MOAHR

**DHHS Department Rep.**

Overpayment Establishment Section  
(OES)  
235 S Grand Ave Ste 811  
Lansing, MI 48909  
**MDHHS-RECOUPMENT-  
HEARINGS@Michigan.gov**

**Via-First Class Mail :**

**Petitioner**

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