



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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██████████, MI ██████████

Date Mailed: July 6, 2023  
MOAHR Docket No.: 23-003045  
Agency No.: ██████████  
Petitioner: ██████ ██████

**ADMINISTRATIVE LAW JUDGE:** Kevin Scully

### **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; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on July 3, 2023, from Lansing, Michigan. Petitioner represented himself. The Department was represented by Anna Peterson.

### **ISSUE**

Did the Department of Health and Human Services (Department) properly determine that Petitioner received an overissuance of Food Assistance Program (FAP) benefits that the Department is required 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 Food Assistance Program (FAP) recipient on March 9, 2021, when the Department received his Renew Benefits form where he reported that Retirement, Survivors, and Disability Insurance (RSDI) was the sole source of income for his household of two people. Exhibit A, pp 56-57.
2. On April 6, 2021, the Department notified Petitioner that he was eligible for Food Assistance Program (FAP) benefits as a household of two receiving no earned income from employment and unearned income in the gross monthly amount of \$████████ Exhibit A, pp 37-43.
3. Petitioner receives monthly Retirement, Survivors, and Disability Insurance (RSDI) in the gross monthly amount of \$████████ as of May 1, 2021. Exhibit A, pp 44-46.

4. A member of Petitioner's household received earned income in the gross quarterly amount of \$[REDACTED] in the second quarter of 2021, and \$[REDACTED] in the third quarter of 2021, and \$[REDACTED] in the fourth quarter of 2021. Exhibit A, pp 51-55.
5. Petitioner received Food Assistance Program (FAP) benefits totaling \$2,964 from May 1, 2021, through October 31, 2021. Exhibit A, pp 17-18.
6. Department records indicate that during a Redetermination interview conducted on October 14, 2021, Petitioner reported that a member of his household had resumed employment but that he could not give an exact return date. Petitioner reported a \$700 housing expense and that he received a Home Heating Credit over \$20, but no medical or child support expense obligations. Exhibit A, pp 47-50.
7. On October 14, 2021, the Department notified Petitioner that he was ineligible for Food Assistance Program (FAP) benefits for exceeding the net monthly income limit for a household of two. Exhibit A, pp 32-36.
8. On May 17, 2023, the Department notified Petitioner that he had received a \$2,964 overissuance of Food Assistance Program (FAP) benefits during the period of May 1, 2021, through October 31, 2021, due to unreported income. Exhibit A, pp 7-12.
9. On May 25, 2023, the Department received Petitioner's request for a hearing protesting the recoupment of Food Assistance Program (FAP) benefits. Exhibit A, pp 3-4.

### **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) is funded under the federal Supplemental Nutrition Assistance Program (SNAP) established by the Food and Nutrition Act of 2008, as amended, 7 USC 2011 through 7 USC 2036a. It is implemented by the federal regulations contained in 7 CFR 273. The Department administers FAP pursuant to MCL 400.10 of the Social Welfare Act, MCL 400.1 *et seq*, and Mich Admin Code, R 400.3001 through 400.3011.

Clients must report changes in circumstance that potentially affect eligibility or benefit amount within 10 days of receiving the first payment reflecting the change. Changes that must be reported include changes of employment status and increases of earned income. Department of Human Services Bridges Assistance Manual (BAM) 105.

When a client group receives more benefits than it is entitled to receive, the Department must attempt to recoup the overissuance. Department of Human Services Bridges Administrative Manual (BAM) 700 (October 1, 2018), p 1. A recipient claim is an amount owed because of benefits that are overpaid and the Department must establish and collect any claim. 7 CFR 273.18(a).

On March 9, 2021, Petitioner was an ongoing FAP recipient has a household of two, when the Department received his Renew Benefits form where he reported that RSDI was the sole source of income for the Department. On April 6, 2021, the Department notified Petitioner that he remained eligible for ongoing FAP benefits as a household of two receiving no earned income from employment and unearned income in the gross monthly amount of \$[REDACTED] which is the amount of RSDI benefits Petitioner was receiving.

On October 14, 2021, Petitioner disclosed that a member of his household had resumed employment but could not give an exact return to work date at that time. The Department initiated in inquiry through its connection to the Michigan Unemployment Insurance Agency and discovered that a member of Petitioner's household had been receiving earned income from employment since the second quarter of 2021.

Petitioner had been receiving FAP benefits as a household of two receiving a total gross monthly income of \$[REDACTED] but the actual household income was \$[REDACTED]. The gross monthly income limit for a household of two was \$1,868 in May of 2021, but this limit did not apply to Petitioner and his household due to Petitioner's disability.

The hearing record supports a finding that Petitioner's monthly obligation for shelter expenses was less half of his actual gross monthly income. Therefore, Petitioner was not eligible for an adjusted shelter deduction. A household of two with a net monthly income exceeding \$1,437 was ineligible for any FAP benefits in May of 2021. Department of Health and Human Services Reference Table Manual (RFT) 250 (October 1, 2020), p 1.

Petitioner testified that he submitted copies of paycheck stubs with his March 9, 2021, Renew Benefits form, but failed to offer evidence of the paycheck stubs that were submitted. Further, Petitioner had not reported any earned income from employment on the March 9, 2021, Renew Benefits form.

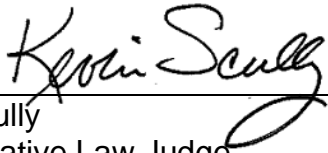
Petitioner received FAP benefits totaling \$2,964 from May 1, 2021, through October 31, 2021, but also received additional supplemental food assistance under the federal Consolidated Appropriations Act that the Department is not entitled to recoup.

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 a \$2,964 overissuance of Food Assistance Program (FAP) benefits that the Department must recoup.

**DECISION AND ORDER**

Accordingly, the Department's decision is AFFIRMED.

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Kevin Scully  
Administrative Law Judge  
Michigan Office of Administrative Hearings and  
Rules (MOAHR)

**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**

Christina Chamberlain  
Presque Isle County DHHS  
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Hearings@michigan.gov**

**Interested Parties**

Presque Isle County DHHS  
MDHHS Recoupment  
N. Stebbins  
MOAHR

**DHHS Department Rep.**

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**Via-First Class Mail :**

**Petitioner**

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