



STATE OF MICHIGAN

GRETCHEN WHITMER  
GOVERNOR

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES  
SUZANNE SONNEBORN  
EXECUTIVE DIRECTOR

MARLON I. BROWN, DPA  
ACTING DIRECTOR

[REDACTED]  
MI [REDACTED]

Date Mailed: December 21, 2023  
MOAHR Docket No.: 23-008143  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Aaron McClintic**

### **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 December 20, 2023, from Lansing, Michigan. The Petitioner was represented by himself. The Department of Health and Human Services (Department) was represented by Walica Randall Department Analyst. Department Exhibit 1, pp. 1-75 was received and admitted.

### **ISSUE**

Did the Department properly determine that Petitioner received an overissuance of Food Assistance Program (FAP) benefits due to agency 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. Petitioner was a recipient of FAP benefits.
2. On October 17, 2023, the Department received a New Hire Data Match which showed Petitioner was working at [REDACTED] (Ex. 1, p. 8-10)
3. Petitioner had employment income from [REDACTED] that was not budgeted during the overissuance period. (Ex. 1, p. 51)

4. On October 26, 2023, Notice of Overissuance was sent to Petitioner alleging that he received an overissuance of FAP benefits in the amount of \$2,814 from December 1, 2022, through August 31, 2023, because he had employment income that was not budgeted.
5. On November 14, 2023, Petitioner requested hearing disputing the determination of overissuance.

### **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.

#### **AGENCY ERROR EXCEPTIONS**

##### **FIP, SDA, CDC and FAP**

Agency error overissuances are not pursued if the estimated amount is less than \$250 per program. BAM 705 (October 2018)

#### **OVERISSUANCE PROCESSING**

##### **FIP, SDA, CDC and FAP**

Agency errors (other than CDC **system** errors) are not pursued if the amount is under \$250 per program. BAM 705 (October 2018)


In this case, Petitioner had employment income from [REDACTED] that was not reported and not budgeted. Therefore, Petitioner had income that should have been budgeted that put him over the income limit. The Department received a Data Match showing Petitioner's new employment that was not processed so the Department characterized the overissuance as agency error. As a result, Petitioner received \$2,814, in FAP benefit from the time period from December 1, 2022, through August 31, 2023, due to agency error. Department policy requires that agency error overissuances be recouped if they are over \$250. BAM 705.

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 an overissuance of FAP benefits in the amount of \$2,814 during the time period from December 1, 2022, and August 31, 2023, due to agency error.

**DECISION AND ORDER**

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

AM/ml

  
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**Aaron McClintic**  
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**

Susan Derseweh  
Genesee County DHHS Clio Rd Dist.  
4809 Clio Road  
Flint, MI 48504

**MDHHS-Genesee-Clio-Hearings@michigan.gov**

**DHHS Department Rep.**

Overpayment Establishment Section (OES)  
235 S Grand Ave, Ste 811  
Lansing, MI 48909

**MDHHS-RECOUPMENT-HEARINGS@Michigan.gov**

**Interested Parties**

BSC2

M Holden

B Cabanaw

N Denson-Sogbaka

MOAHR

**Via First Class Mail:**

**Petitioner**

[REDACTED]  
MI [REDACTED]