



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



Date Mailed: February 8, 2024  
MOAHR Docket No.: 24-000022  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Caralyce M. Lassner**

### **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 hearing was held by telephone on January 29, 2024. Petitioner represented himself. The Department of Health and Human Services (Department) was represented by Lakeyia Johnson, Assistance Payments Specialist.

### **ISSUE**

Did the Department properly deny Petitioner's request for replacement of stolen Food Assistance Program (FAP) benefits?

### **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 is an ongoing receipt of FAP benefits.
2. On December 15, 2023, Petitioner submitted a Food Replacement Affidavit reporting stolen benefits to the Department. (Exhibit A, pp. 6 – 8).
3. At the time Petitioner submitted his Food Replacement Affidavit, Petitioner's FAP benefit amount was \$291.00 per month.
4. On December 26, 2023, the Department issued a Benefit Notice denying Petitioner's request. (Exhibit A, pp. 10 – 13).
5. On January 4, 2023, Petitioner requested a hearing on the denial.

## **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, Petitioner reported theft of his FAP benefits, in the amount of \$215.00, to the Department and requested replacement benefits. The Department denied his request.

The Economic Stability Administration (ESA), a division of the Michigan Department of Health and Human Services, issues supplemental policies and processes concerning or addressing issues related to FAP, among others, as needed. ESA Memo 2023-53 (ESA 2023-53), issued October 23, 2023 with an effective date of October 30, 2023, addresses the issue of Bridge Card fraud as it relates to FAP benefits and other programs and outlines the appropriate form that must be utilized if a FAP recipient reports their benefits stolen by fraud and certain deadlines related to the recipient's loss. In conjunction with the memo, the ESA also issued the FAP Bridge Card Fraud Replacement Local Office Process Guide (Process Guide) which further describes fraud to include card cloning, skimming, and other activities including phishing schemes. Process Guide, p. 1.

Upon being notified by a FAP recipient that they have had their benefits stolen by fraud, the Department must follow the Process Guide for FAP claims. ESA 2023-53, p. 3. The FAP recipient must complete the Food Replacement Affidavit (DHS-601) within 60 days of the fraud occurrence, and the Department must generate a Verification Checklist (DHS-3503) for the recipient to complete within ten (10) days. ESA 2023-53, p. 3.

Once the Food Replacement Affidavit indicating benefits were stolen due to fraud, has been returned to the Department, the local office specialist and a local office supervisor must sign the approved DHS-601. ESA 2023-53, pp. 3 – 4. The fully executed DHS-601 must then be forwarded to Central Office (CO) for final approval or denial. ESA 2023-53, pp. 3 – 4.

The Process Guide sets forth further detail as to the processing of the DHS-601. The Process Guide requires that prior to being submitted to CO, the DHS-601, reporting

fraud, must include an inked signature of both the local office specialist and a local office supervisor. Process Guide, p. 2. The Process Guide reiterates that CO will make the final determination of eligibility. Process Guide, p. 2. If approved for replacement benefits, Petitioner may be entitled to receive replacement of up to two months of benefits, issued prior to the fraud, or the amount that was lost to fraud, whichever is lower. ESA 2023-53, p. 4.

Here, Petitioner submitted to the Department a completed DHS-601, Food Replacement Affidavit, claiming a loss of \$215, and the Department acknowledged receiving Petitioner's affidavit, but based on the Department's testimony and the evidence presented, the Department failed to complete DHS-601 in compliance with the Process Guide. (Exhibit A, p. 8). Further, the Department did not establish that further information from Petitioner was gathered or evaluated, such as a copy of the report Petitioner filed with the police. There was no evidence that CO made a final determination and, if so, the reason for its decision.

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 denied Petitioner's request for replacement FAP benefits due to theft/EBT fraud.

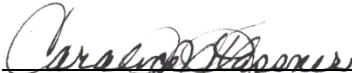
### **DECISION AND ORDER**

Accordingly, the Department's decision is **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. Reprocess Petitioner's DHS-601 as required by ESA 2023-53 and the Process Guide, as of December 15, 2023;
2. If eligible, issue any replacement FAP benefits Petitioner is determined to be entitled to; and
3. Notify Petitioner of its decision in writing.

CML/ml

  
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**Caralyce M. Lassner**  
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**  
Denise Key-McCoggle  
Wayne-Greydale-DHHS  
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**Interested Parties**  
BSC4  
M Holden  
B Cabanaw  
N Denson-Sogbaka

**Via First Class Mail:**

**Petitioner**  
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[REDACTED]  
[REDACTED] MI [REDACTED]