



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  
DIRECTOR



Date Mailed: May 8, 2024  
MOAHR Docket No.: 24-003451  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: L. Alisyn Crawford**

### **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 May 1, 2024. Petitioner was present at the hearing and represented herself. The Department of Health and Human Services (Department) was represented by Annette Fullerton, Overpayment Establishment Analyst.

### **ISSUE**

Did the Department properly determine that Petitioner received an overissuance (OI) of Food Assistance Program (FAP) benefits in the amount of \$1,132.00, for the period of December 1, 2020 through April 30, 2021, due to 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. At all times relevant to this case, Petitioner was an ongoing recipient of FAP benefits for a group size of one.
2. On May 11, 2021, the Department sent a Wage Match Client Notice to Petitioner with a due date of June 10, 2021. (Exhibit A, p. 8). Section one of the notice was completed by [REDACTED] (Employer), as directed. (Exhibit A, pp. 9-10).
3. On May 26, 2021, the Recoupment Specialist got an Overissuance Referral, DHS 4701, of Petitioner having unreported earnings from December 2020 to April 2021 due to a wage match from [REDACTED] (Employer). (Exhibit A, p. 7).

4. The Department determined that Petitioner received a FAP overissuance in the amount of \$1,132 during the time period of December 1, 2020 through April 30, 2021, due to client error.
5. On February 27, 2024, the Department sent Petitioner a Notice of Overissuance, DHS 4358, and a Department and Client Error Information and Repayment Agreement, DHS 4358C.
6. On March 14, 2024, Petitioner submitted a request for hearing to the Department disputing the Department's FAP OI determination. (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) [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.

Petitioner requested a hearing in this matter to dispute a finding by the Department that she was overissued FAP benefits in the amount of \$1,132 between December 1, 2020 and April 30, 2021 based on Petitioner's failure to report employment income to the Department.

When a client group receives more benefits than it is entitled to receive, the Department must attempt to recoup the OI. BAM 700 (October 2018), p. 1; 7 CFR 273.18(a)(2). The amount of a FAP OI is the benefit amount the client received minus the amount the client was eligible to receive. BAM 715 (October 2017), p. 6; 7 CFR 273.18(c)(1). An OI can be caused by client error, agency error, or an intentional program violation (IPV). BAM 700, pp. 5-9. A client error occurs when the OI was due to the client giving incorrect or incomplete information to Department, while an agency error is caused by incorrect actions by the Department, including not using available information. BAM 700, pp. 5-7; BAM 705 (October 2018), p. 1; 7 CFR 273.18(b)(3).

When an OI in excess of \$250.00 is discovered, the Department is required to establish a claim for repayment for the OI. BAM 715, p. 7; 7 CFR 273.18(d)(3). The Department must go back to at least twelve months before it became aware of the overpayment; however, it cannot include amounts that occurred more than six years before it became aware of the overpayment. 7 CFR 273.18(c)(i); BAM 705, pp. 5-6. Because the referral

to the recoupment specialist was made in the case on May 26, 2021 (Exhibit A, p. 7), the Department may properly pursue an OI against Petitioner for the period December 1, 2020 through April 30, 2021, which is a period that starts within twelve months prior to the referral date and within six years of when it became aware of the overpayment.

In this case, Petitioner failed to report her return to work and the income earned from employment during the OI period. Based on information provided to the Department during an August 2020 interview with Petitioner, she worked part-time as a school bus driver for Employer until May 8, 2020, when she was laid off due to the pandemic and eliminated need for school bussing since students were attending classes virtually during that time. (Exhibit A, p. 47). Petitioner returned to Employer as a bus driver on October 9, 2020. (Exhibit A, p. 14). While Petitioner testified that she reported her return to work when she submitted her paystubs to the Department at some point relevant to the period at issue, she was not able to offer evidence in support of her testimony that she had reported this change to the Department. Furthermore, in her hearing request, Petitioner noted that she reported her income timely in November 2023 by mail, fax, and MiBridges. (Exhibit A, pp. 3-4).

In support of its calculation of an OI, the Department presented monthly OI budgets for each month of the OI period (December 2020, and January, February, March, and April of 2021). The Department testified that it calculated the OI total for the OI period by calculating what Petitioner's FAP budget would have been for each month during the OI period had the group's earned income been included in the household budget. BEM 505 (October 2023), pp. 13-14; Exhibit A, pp. 15-24). To calculate Petitioner's group income for purposes of determining the OI, the Department utilized employment income information for Petitioner from Wage Match<sup>1</sup> and a Wage Verification form completed by Employer. (Exhibit A, pp. 8-10).

A review of the OI budgets shows that the Department correctly recalculated Petitioner's gross monthly income based on actual pay for each month at issue. (Exhibit A, pp. 15-24). The FAP gross income limit for a group size of one was \$2,128. RFT 250 (October 2020) p. 1. Based on the group's earned income during the OI period, Petitioner's FAP group was not eligible for any FAP benefits from December 1, 2020 through April 30, 2021. During this period, Petitioner was issued \$1,132 in FAP. Therefore, Petitioner received an OI of FAP benefits totaling \$1,132. (Exhibit A, pp. 12-14). The Department's FAP OI budgets correctly reflect that Petitioner should not have received any FAP benefits for that period. (Exhibit A, pp. 12-14); see also RFT 250 (October 2020) and RFT 260 (January 2021)). Therefore, the OI of FAP benefits is \$1,132.

At the hearing, Petitioner expressed concerns claims of "fraud" being noted in her case file; however, the Department explained that the OI was not a fraud determination. The Department also re-processed the OI budgets for the related time period as an agency error and testified that even if it were an agency error, Petitioner's income still exceeded the gross income limits to qualify for FAP benefits during the period at issue. Therefore,

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<sup>1</sup> Wage Match references the matching of recipient employment data with the Talent Investment Agency (TIA) and Unemployment Insurance Agency (UIA) through computer data exchanges.

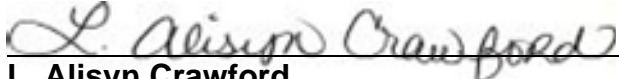
whether Petitioner reported income or not would not have any impact on the OI claim amount of \$1,132. (Exhibit A, pp. 53-63).

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 an OI of FAP benefits to Petitioner exists, due to client error, and the Department is entitled to recoup.

**DECISION AND ORDER**

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

LC/ml

  
**L. Alisyn Crawford**  
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**

Jared Ritch

Oakland County Pontiac-Woodward Dist.

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**MDHHS-Oakland-District-IV-Hearings@michigan.gov**

**DHHS Department Rep.**

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**Interested Parties**

BSC4

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**Via First Class Mail:**

**Petitioner**

[REDACTED]  
MI [REDACTED]