



GRETCHEN WHITMER  
GOVERNOR

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

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DIRECTOR

██████████  
██████████, MI ██████████

Date Mailed: July 5, 2024  
MOAHR Docket No.: 24-006126  
Agency No.: 117600871  
Petitioner: ██████████ ██████████

**ADMINISTRATIVE LAW JUDGE: Danielle Nuccio**

### **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 July 3, 2024. Petitioner did not appear. ██████████ ██████████ Petitioner's mother, and household member at the time of the issue in question, appeared and represented herself. The Department of Health and Human Services (MDHHS) was represented by Rebecca Webber, Overpayment Establishment Analyst.

### **ISSUE**

Did MDHHS properly initiate recoupment of overpaid Food Assistance Program (FAP) benefits from ██████████ ██████████ due to agency error in issuing FAP benefits to Petitioner?

### **FINDINGS OF FACT**

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

1. On ██████████ ██████████ 2014, Petitioner submitted an application for FAP benefits for herself (Exhibit A, pp. 83-97).
2. Petitioner was ██████████ years old at the time of the application and lived with her mother, ██████████ ██████████ (Mother).
3. From March 2014 through December 2014, MDHHS issued FAP benefits to Petitioner for a group size of three, which included Petitioner, Petitioner's child, and Mother. MDHHS did not consider any household income when determining Petitioner's FAP eligibility.

4. Mother was not aware at the time that she was included in Petitioner's FAP group.
5. On December 2, 2014, an Overissuance Referral was created indicating that Mother had unreported earnings for the household from April 2014 through December 2014 (Exhibit A, p. 101).
6. On May 1, 2024, following an administrative hearing, MDHHS was ordered to recalculate the overpayment (OP) amount (Exhibit A, pp. 6-12).
7. On May 10, 2024, a Notice of Overissuance was issued to Petitioner and to Mother, informing her that a new agency error (AE) claim was established for OP period March 1, 2014 through December 31, 2024 for \$4,408.00, with a remaining balance of \$2,578.04 (Exhibit A, pp. 13-24).
8. On May 28, 2024, Mother submitted a request for hearing (Exhibit A, p. 5).

### 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, Mother disputes that she must repay overpaid FAP benefits made to her daughter, Petitioner.

Client error (CE) OPs exist when a client gives incorrect or incomplete information to the MDHHS. BAM 715 (July 2013), p. 1; 7 CFR 273.18(b). Agency error (AE) OPs are caused by incorrect actions, including delays or no action, by MDHHS. BAM 705 (July 2013), p. 1; 7 CFR 273.18(b). MDHHS must attempt to recoup all FAP OIs greater than \$250.00. BAM 700 (July 2013), pp. 1, 5, 9. Policy further provides that if upon a timely hearing request, an administrative hearing decision upholds MDHHS' actions, the client must repay the OP. BAM 700, pp. 3-4. A client is defined as a person who applied for, currently receives, inquires about, or **is part of a base group that receives program benefits**. BPG Glossary, p. 13 (Emphasis added). In AE OP cases, MDHHS can only establish an OP for the period beginning the first month when the benefit issuance exceeds the amount allowed by policy, or the 12 months before the date the OP was referred to the Recoupment Specialist, whichever 12-month period is later. BAM 705, p. 5. Pursuant to Federal Regulations, the state must establish and collect

any recipient claim amount owed because of overpayment of benefits and establish a plan for establishing, collecting, and processing of the claims. 7 CFR 273.18(a)(1-3). Furthermore, both policy and Federal regulations provide that **each adult member of a household is responsible for payment of claims.** BAM 725, p. 1; 7 CFR 273.18(a)(4) (Emphasis Added).

In reviewing this case, upon initial application, Petitioner, age [REDACTED] at application, did not include Mother on the application or in the household, but MDHHS became aware that Petitioner was living with Mother and included Mother in the FAP group composition but failed to consider her income. Pursuant to policy and Federal Regulation, parents, and their children under 22 years of age who live together must be in the same FAP group regardless of whether the child has their own spouse or child who lives with the group. BEM 212 (February 2014), p. 1; 7 CFR 273.1(b)(ii). Therefore, although Mother did not submit the application and had no intention of receiving FAP benefits, Mother was properly placed in the FAP group of Petitioner. Since Mother was in the FAP group of Petitioner, and she was an adult within the group, both Mother and Petitioner are responsible for any potential overissuance of FAP benefits whether caused by someone in the FAP group or caused by the MDHHS.

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 MDHHS properly initiated recoupment of overpaid FAP benefits from Petitioner and Mother.

**DECISION AND ORDER**

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



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**Danielle Nuccio**  
Administrative Law Judge

DN/nr

**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**  
Yaita Turner  
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**Interested Parties**  
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