



GRETCHEN WHITMER  
GOVERNOR

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

MARLON I. BROWN, DPA  
DIRECTOR

[REDACTED]  
[REDACTED], MI [REDACTED]

Date Mailed: July 23, 2024  
MOAHR Docket No.: 24-006401  
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 July 10, 2024. Petitioner appeared and was represented was represented by his Authorized Hearing Representative (AHR), [REDACTED] [REDACTED]. The Department of Health and Human Services (Department) was represented by Corlette Brown, Hearing Facilitator, and Helen Woodruff, Assistance Payments Worker.

### **ISSUE**

Did the Department properly reduce Petitioner's Food Assistance Program (FAP) benefits due to a recoupment?

Did the Department properly issue Child Development and Care (CDC) payments to the correct address?

Did the Department properly deny Petitioner's State Emergency Relief (SER) assistance for electricity?

### **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 recipient of FAP and CDC.
2. Petitioner's issued FAP benefits have been reduced by a recoupment due to an established overpayment (OP). (Exhibit A, p. 4).

3. Petitioner's CDC payments are being mailed to Petitioner's address pursuant to Petitioner's request. (Exhibit A, p. 1).
4. On [REDACTED] [REDACTED] 2024, Petitioner applied for SER assistance for his electric utility. (Exhibit A, pp. 7 – 14).
5. Petitioner had a past due electric bill with DTE for \$4,354.42. (Exhibit A, pp. 15 – 16).
6. On May 7, 2024, the Department sent Petitioner a State Emergency Relief Decision Notice (SERDN) approving Petitioner for SER electricity assistance in the amount of \$850, contingent on Petitioner providing proof of payment of a co-pay in the amount of \$3,504.42 by May 29, 2024. (Exhibit A, pp. 18 – 21).
7. Petitioner did not pay DTE the required co-payment and proof of payment was not provided to the Department. (Exhibit A, p. 1).
8. On May 28, 2024, the Department received a request for hearing from Petitioner disputing a) the recoupment of amounts from his FAP and his responsibility to repay an OP; b) where his CDC provider payments were being mailed and/or not being mailed; and c) that the Department did not issue a SER assistance payment to his electricity provider.

### **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).

Petitioner requested a hearing regarding issues with three assistance programs: FAP, CDC, and SER.

#### **FAP**

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 because FAP benefits were decreased due to an OP recoupment. An OP was previously established by the Department and Petitioner's ongoing benefit issuances have been reduced due to a portion being withheld for recoupment of the OP.

When a client group receives more benefits than entitled to receive, the Department must attempt to recoup the OP as a recipient claim. BAM 700 (June 2024), p. 1; 7 CFR 273.18(a)(2). The amount of a FAP OP is the benefit amount the client actually received minus the amount the client was eligible to receive. BAM 715 (June 2024), pp. 4 – 6; 7 CFR 273.18(c)(1). A FAP OP can be caused by client error, agency error, or an intentional program violation (IPV). BAM 700, pp. 5 – 9. When an OP in excess of \$250.00 is discovered, the Department is required to establish a claim for repayment for the OP. BAM 700, p. 5; 7 CFR 273.18(d)(3).

For client and agency errors regarding FAP OP, the Department must send the client a Notice of Overissuance (Notice) with other information including the client's right to request a hearing. BAM 705 (October 2018), p. 10; BAM 715 (October 2017), p. 10. The client or AHR has 90 calendar days from the date of the Notice to request a hearing, which must be received in the local office within the 90 days. BAM 600 (February 2024), p. 6.

In this case, the Department testified that that the Notice was mailed to Petitioner on January 30, 2024 at his confirmed address. Petitioner indicated that he is unaware of the basis of any OP and the AHR testified that Petitioner should not be responsible for any OP because the Department issued the FAP benefits to him. (Exhibit A, p. 4). However, no evidence was offered that a request for hearing on the OP was received by the Department by April 29, 2024, the 90-day deadline for requesting a hearing. Because no timely request for hearing disputing the OP was received by the Department by April 29, 2024, Petitioner's hearing request as to the OP was not timely filed and does not present a hearable issue and is, therefore, DISMISSED for lack of jurisdiction.

At the hearing, the AHR testified that she had no other outstanding issues as to Petitioner's FAP benefits and therefore, no other issues remained to be resolved with respect to Petitioner's request for hearing for FAP.

### **CDC**

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, 42 USC 601-619, 670-679c, and 1397-1397m-5; the Child Care and Development Block Grant of 1990, PL 101-508, 42 USC 9858 to 9858q; and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193. The program is implemented by 45 CFR 98.1-99.33. The Department administers the program pursuant to MCL 400.10 and provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001-.5020.

Petitioner requested a hearing because approved CDC payments were not being mailed to Petitioner or his provider and the provider was having a problem with billing.

The AHR testified that there was an issue with Petitioner's provider receiving payments, that past payments were reissued by the Department for provider, and those payments were sent to the Department's local office instead of Petitioner's home. She further

testified that Petitioner was required to go to the local office to pick up the payments. The Department testified that once it was advised of the issue with Petitioner's CDC payments, the Department reviewed Petitioner's CDC case, confirmed the payment address information, and that ongoing payments are being sent to Petitioner's address as requested.

When the Department identifies an error on its part, it is to document and correct its action as soon as possible. BAM 115 (May 2024), p. 32. The evidence presented established that prior to the hearing, the Department corrected the action that Petitioner requested a hearing to dispute by confirming Petitioner's CDC case had the correct provider payment information and address. Therefore, because the Department corrected its action prior to the hearing, there was no issue to be resolved with respect to Petitioner's request for hearing for CDC.

### **SER**

The State Emergency Relief (SER) program is established by the Social Welfare Act, MCL 400.1-.119b. The SER program is administered by the Department (formerly known as the Department of Human Services) pursuant to MCL 400.10 and Mich Admin Code, R 400.7001-.7049.

Petitioner requested a hearing because the Department did not issue a payment for Petitioner's electrical utility. The Department approved Petitioner for SER electricity assistance subject to a co-pay of \$3,504.42.

The SER program provides assistance to applicants to secure or maintain safe, decent, affordable housing and other essential needs when an emergency situation arises, including avoiding interruption of electricity due to shut off notices. ERM 100 (October 2023), pp. 2 – 3; ERM 101 (March 2023), p. 1. The maximum assistance the Department may provide under SER for electric is \$850 per fiscal year. ERM 301, p. 12. If the past due balance on the electric account is more than the maximum assistance allowed by SER, the client will have a copayment identified on the SERDN, which will inform the SER group of the amount the group must pay and a 30-day due date for returning proof of payment to the Department. ERM 208 (October 2023), p. 5. If the SER group has a copayment, shortfall, or contribution, the Department cannot issue payment until the group provides proof that payment has been made or will be made by another agency. ERM 208, p. 5; ERM 301, p. 13.

In this case, the evidence established that Petitioner's account balance was \$4,354.42. (Exhibit A, p. 16). The Department determined it could provide assistance to Petitioner in the maximum allowed amount of \$850 if Petitioner paid the difference of \$3,504.42, which would resolve Petitioner's emergency and maintain the service for at least 30 days. ERM 301, p. 13. The Department notified Petitioner that once he provided proof that the co-pay of \$3,504.42 had been paid to DTE, the Department would pay the balance of \$850. The AHR testified that Petitioner did not pay the co-pay amount and the Department testified that it did not receive proof that the copayment was made. Because approval of the SER funds was contingent on receipt of proof that the

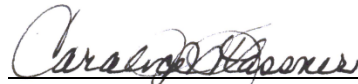
copayment was made and no proof was provided, the Department acted in accordance with policy when Petitioner's SER assistance payment of \$850 was denied.

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 no hearable issues remain to be resolved as to FAP and CDC and that the Department acted in accordance with Department policy when it denied Petitioner's SER assistance payment of \$850.

**DECISION AND ORDER**

Accordingly, the Department's decision is **AFFIRMED IN PART** with respect to denial of Petitioner's SER assistance payment of \$850 and **DISMISSED IN PART** with respect to Petitioner's request for hearing regarding FAP and CDC.

CL/nr



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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**

Keisha Koger-Roper  
Wayne-District 31 (Grandmont)  
17455 Grand River  
Detroit, MI 48227

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Hearings@Michigan.gov**

**Interested Parties**

BSC4

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MOAHR

**Via-First Class Mail :**

**Authorized Hearing Rep.**

[REDACTED]  
[REDACTED]  
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**Petitioner**

[REDACTED]  
[REDACTED]  
[REDACTED], MI [REDACTED]