



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], MI [REDACTED]

Date Mailed: July 23, 2024  
MOAHR Docket No.: 24-007101  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Ellen McLemore**

### **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 18, 2024, via conference line. Petitioner was present and was unrepresented. The Department of Health and Human Services (Department) was represented by LaCre Barnett, Overpayment Establishment Analyst.

### **ISSUE**

Did Petitioner receive an overissuance of Food Assistance Program (FAP) benefits that the Department is entitled to recoup?

### **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 an ongoing FAP recipient between the period of June 1, 2020, through September 30, 2020 (Exhibit A, pp. 17-18).
2. On [REDACTED] 2020, Petitioner submitted an application for FAP benefits stating that she was married and that her husband had income (Exhibit A, pp. 39-45).
3. On April 17, 2020, Petitioner completed an interview related to her FAP benefit case and reported that she and her husband were both employed (Exhibit A, pp. 36-38).
4. On May 29, 2024, the Department sent Petitioner a Notice of Overissuance informing her that she was overissued FAP benefits for the period of June 1, 2020,

through September 30, 2020, in the amount of \$2,036 due to Agency error (Exhibit A, pp.10-11).

5. On June 14, 2024, Petitioner submitted a request for hearing disputing the Department's actions.

### **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 submitted an application for FAP benefits on [REDACTED] 2020, stating that her husband had earned income from employment. Petitioner completed an interview on April 17, 2024, and reported that she and her husband had earned income from employment.

All countable earned and unearned income available to the client must be considered in determining a client's eligibility for program benefits. An employee's wages include salaries, tips, commissions, bonuses, severance pay, and flexible benefit funds not used to purchase insurance. The Department counts gross wages in the calculation of earned income. BEM 501 (July 2016), pp. 6-7.

Despite the information provided by Petitioner, the Department did not include her husband's earned income in the calculation of Petitioner's FAP benefit amount throughout the period of June 1, 2020, through September 30, 2020. As such, the Department testified that Petitioner's FAP benefit amount was improperly calculated, as the earned income from Petitioner's husband's employment should have been included in Petitioner's FAP budget. The Department testified that Petitioner was overissued FAP benefits for the period of June 1, 2020, through September 30, 2020, in the amount of \$2,036 due to Agency error.

When a client group receives more benefits than it is entitled to receive, the Department **must** attempt to recoup the overissuance. BAM 700 (October 2016), p. 1. An agency error is caused by incorrect action by the Department staff or department processes. BAM 700, p. 4. The amount of the overissuance is the benefit amount the group actually received minus the amount the group was eligible to receive. BAM 705 (January 2016),

p. 6. If improper budgeting of income caused the overissuance, the Department will use actual income for the past overissuance month for that income source when determining the correct benefit amount. BAM 705, p. 8.

The Department provided the April 7, 2020 application submitted by Petitioner. The Department also presented the Interview Guide from Petitioner's April 17, 2020 interview. On both dates, Petitioner reported that her husband had earned income from employment. The Department also presented a Work Number report showing Petitioner's husband's wages during the period of June 1, 2020, through September 30, 2020 (Exhibit A, pp. 28-32). Additionally, the Department provided testimony that Petitioner's original FAP budget only included \$995 in earned income from Petitioner's income from employment alone. Per the Work Number, Petitioner's husband's earned income exceeded \$995. As such, the Department correctly determined Petitioner's husband's earned income was not properly budgeted, and Petitioner was overissued FAP benefits as a result of Agency error.

The Department presented Petitioner's Benefit Summary, which showed she was issued \$2,036 in FAP benefits for the period of June 1, 2020, through September 30, 2020 (Exhibit A, pp. 17-18). The Department presented overissuance budgets for the same time period (Exhibit A, pp. 19-27). The Department recalculated Petitioner's FAP benefits by adding Petitioner's husband's earned income for each month as shown on the Work Number. The budgets show that for the period of June 1, 2020, through September 30, 2020, Petitioner was entitled to receive \$0 in FAP benefits. Therefore, the Department established it properly determined Petitioner was overissued FAP benefits in the amount of \$2,036.

### **DECISION AND ORDER**

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 Petitioner received an overissuance of FAP benefits in the amount of \$2,036. Accordingly, the Department's decision is **AFFIRMED**.

EM/nr

  
\_\_\_\_\_  
**Ellen McLemore**  
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 Department Rep.**  
Overpayment Establishment Section (OES)  
235 S Grand Ave Ste 811  
Lansing, MI 48909  
**MDHHS-RECOUPMENT-HEARINGS@Michigan.gov**

**Interested Parties**  
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BSC2 Hearing Decisions  
M. Holden  
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B. Cabanaw  
MOAHR

**Via-First Class Mail :**

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