



GRETCHEN WHITMER  
GOVERNOR

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

ORLENE HAWKS  
DIRECTOR

[REDACTED]  
MI [REDACTED]

Date Mailed: November 3, 2022  
MOAHR Docket No.: 22-004227  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Carmen G. Fahie**

### **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 October 25, 2022. The Petitioner represented herself. The Department of Health and Human Services (Department) was represented by Julie Luczak, Recoupment Specialist.

### **ISSUE**

Did the Department properly determine that the Petitioner received an overissuance of Food Assistance Program (FAP) benefits that the Department is entitled to recoup due to Client and Agency 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. The Petitioner was a recipient of FAP benefits for a FAP group of six based on her household composition. Department Exhibit 3.
2. On April 12, 2018, the Department received an Overissuance Referral, DHS 4701, due to a FAP redetermination for April 2018 that determined the Petitioner owned a second home since November 2016, which made her over the income limit for FAP. Department Exhibit 14.
3. The Department determined that the Petitioner received a FAP overissuance in the amount of \$4,646 during the time period of May 1, 2017, through October 31, 2017, due to Client error. Department Exhibit 4.

4. The Department determined that the Petitioner received a FAP overissuance in the amount of \$4,626 during the time period of November 1, 2017, through April 30, 2018, due to Department error. Department Exhibit 4.
5. The overissuance was due to Client error because the Petitioner failed to properly report her property ownership of a second home located at [REDACTED] MI [REDACTED] with a value of \$104,500, which was countable toward the FAP asset limit of \$5,000 to the Department within 10 days as required by Department policy until her Semi-Annual Contact Report submitted to the Department on September 28, 2017, with written verification of property ownership, but the Department failed to properly include the asset in the FAP budget resulting in an Agency Error moving forward. Department Exhibit 5-7 and 8-13.
6. On June 10, 2022, the Department sent the Petitioner notices of the overissuance and a repayment agreement due to Client and Agency Error. Department Exhibit 1-2.
7. On September 8, 2022, the Department received a hearing request from the Petitioner, contesting the Department's negative action.

#### **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, the Petitioner was a recipient of FAP benefits for a FAP group of six based on her household. Department Exhibit 3. On April 12, 2018, the Department received an Overissuance Referral, DHS 4701, due to a FAP redetermination for April 2018 that determined the Petitioner owned a second home since November 2016, which made her over the income limit for FAP. Department Exhibit 14. The overissuance was due to Client error because the Petitioner failed to properly report her property ownership of a second home located at [REDACTED] MI [REDACTED] with a value of \$104,500, which was countable toward the FAP asset limit of \$5,000 to the Department within 10 days as required by Department policy until her Semi-Annual Contact Report submitted to the Department on September 28, 2017, with written verification of

property ownership, but the Department failed to properly include the asset in the FAP budget resulting in an Agency Error moving forward. Department Exhibit 5-7 and 8-13.

On June 10, 2022, the Department sent the Petitioner notices of the overissuance and a repayment agreement due to Client and Agency error. Department Exhibit 1-2. The Department determined that the Petitioner received a FAP overissuance in the amount of \$4,646 during the time period of May 1, 2017, through October 31, 2017, due to Client error. Department Exhibit 4. The Department determined that the Petitioner received a FAP overissuance in the amount of \$4,626 during the time period of November 1, 2017, through April 30, 2018, due to Department error. Department Exhibit 4. As a result, the Petitioner received an overissuance of FAP benefits that she wasn't entitled to of \$9,272 that the Department is required to recoup due to Client and Agency error for the contested time period of May 1, 2017, through April 30, 2018. On September 8, 2022, the Department received a hearing request from the Petitioner, contesting the Department's negative action. BAM 105, 115, 220, 700, 705, 715, and 725. BEM 400, 550, 554, and 556.

During the hearing, the Petitioner stated it was her son's property who transferred it to her by quit claim deed on November 8, 2016. The property was being rehabbed and was unlivable. However, the value of the asset was over the \$5,000 asset limit for FAP eligibility. The Petitioner failed to report the property on her redetermination for the month of April 2017, which was received by the Department on June 23, 2017. The asset was reported on her Semi-Annual Contact Report submitted to the Department on September 28, 2017.

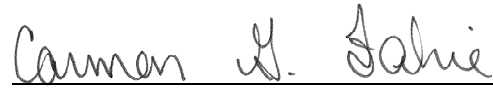
Recoupment Specialist stated that the Petitioner did not report the asset to the Department within 10 days as required by Department policy. The Petitioner did spend the overissued FAP benefits. As a result, the Petitioner received an overissuance of FAP benefits that she wasn't entitled to of \$9,272 that the Department is required to recoup due to Client and Agency error for the contested time period of May 1, 2017, through April 30, 2018.

### **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 that the Petitioner received an overissuance of FAP benefits due to Client and Agency error, in the amount of \$9,272 for the contested time period of May 1, 2017, through April 30, 2018 that the Department is required to recoup.

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

CF/cc

Handwritten signature of Carmen G. Fahie in cursive script.

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**Carmen G. Fahie**  
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 :**

**Interested Parties**

MDHHS-Livingston-Hearings  
BSC4-HearingDecisions  
MDHHS-Recoupment-Hearings  
D. Sweeney  
M. Holden  
MOAHR

**Via-First Class Mail :**

**Petitioner**

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