



GRETCHEN WHITMER  
GOVERNOR

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

ORLENE HAWKS  
DIRECTOR

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██████████, MI ██████████

Date Mailed: March 1, 2023  
MOAHR Docket No.: 23-000326  
Agency No.: ██████████  
Petitioner: ██████████ ██████████

**ADMINISTRATIVE LAW JUDGE:** Kevin Scully

**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; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on February 23, 2023, from Lansing, Michigan. Petitioner represented herself. The Department was represented by Dawn McKay.

**ISSUE**

Did the Department of Health and Human Services (Department) properly determine that Petitioner had received an overissuance of Food Assistance Program (FAP) benefits that the Department is required 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 acknowledged the duties and responsibilities of receiving Food Assistance Program (FAP) benefits on a Redetermination (DHS-1010) form received by the Department on September 20, 2017. Exhibit A, pp 4-11.
2. Petitioner reported on her September 20, 2017, Redetermination form that she was self-employed. Exhibit A, p 8.
3. On October 5, 2016, the Department received a copy of Petitioner's 2015 Schedule C tax form as verification of her annual self-employment income. Exhibit A, pp 12-13.
4. On January 11, 2023, the Department notified Petitioner that she had received a \$1,359 overissuance of Food Assistance Program (FAP) benefits during the period of February 1, 2017, through October 31, 2017, due to the Department's failure to budget her self-employment income. Exhibit A, pp 35-40.

5. On January 13, 2023, the Department received Petitioner's request for a hearing protesting the recoupment of Food Assistance Program (FAP) benefits. Exhibit A, p 3.

### **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) is funded under the federal Supplemental Nutrition Assistance Program (SNAP) established by the Food and Nutrition Act of 2008, as amended, 7 USC 2011 through 7 USC 2036a. It is implemented by the federal regulations contained in 7 CFR 273. The Department administers FAP pursuant to MCL 400.10 of the Social Welfare Act, MCL 400.1 *et seq*, and Mich Admin Code, R 400.3001 through 400.3011.

When a client group receives more benefits than it is entitled to receive, the Department must attempt to recoup the overissuance. Department of Human Services Bridges Administrative Manual (BAM) 700 (October 1, 2018), p 1. A recipient claim is an amount owed because of benefits that are overpaid and the Department must establish and collect any claim. 7 CFR 273.18(a).

Petitioner was an ongoing FAP recipient on September 20, 2017, when the Department received her Redetermination form. Petitioner reported to the Department that she was employed and verified her income by providing a copy of her 2015 Schedule C income tax form.

Due to Department error, Petitioner's self-employment income was not applied towards her eligibility for FAP benefits. No evidence was presented on the record that Petitioner had provided verification of her actual self-employment expenses incurred in 2017. If the Department had properly processed the income Petitioner reported on October 5, 2016, the Department would have reduced that income first by the 25% flat self-employment expense deduction as directed by BEM 502, and then the 20% earned income deduction by BEM 550.

However, due to Department error, this income was not applied towards Petitioner's eligibility for FAP benefits. If Petitioner had failed to report her income in a timely manner, then she would not have been entitled to the 20% earned income deduction when the Department redetermined her eligibility for FAP benefits during the period that her income had not been applied.

The hearing record supports a finding that Petitioner received FAP benefits totaling \$4,802 from February 1, 2017, through October 31, 2017, and that if not for the Department's failure to properly budget the income she had reported, she would have

been eligible for only \$3,443 of those benefits. Therefore, Petitioner received a \$1,359 overissuance of FAP benefits that the Department is required to recoup.

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 Petitioner received an overissuance of Food Assistance Program (FAP) benefits that the Department is required to recoup.

**DECISION AND ORDER**

Accordingly, the Department's decision is AFFIRMED.

KS/nr

  
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Kevin Scully  
Administrative Law Judge  
Michigan Office of Administrative Hearings  
and Rules (MOAHR)

**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**

Jamie Dent  
Grand Traverse/Leelanau County  
DHHS  
701 S. Elmwood Suite 19  
Traverse City, MI 49684  
**MDHHS-GrandTraverse-  
Hearings@michigan.gov**

**Interested Parties**

Grand Traverse County DHHS  
MDHHS Recoupment  
N. Stebbins  
MOAHR

**DHHS Department Rep.**

Overpayment Research and  
Verification (ORV)  
235 S Grand Ave  
Lansing, MI 48909  
**MDHHS-RECOUPMENT-  
HEARINGS@michigan.gov**

**Via-First Class Mail :**

**Petitioner**

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