



STATE OF MICHIGAN

GRETCHEN WHITMER  
GOVERNOR

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

MARLON I. BROWN, DPA  
ACTING DIRECTOR

[REDACTED]  
[REDACTED]  
[REDACTED]

Date Mailed: February 9, 2024  
MOAHR Docket No.: 23-009967  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**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 6, 2024, from Lansing, Michigan. Petitioner represented herself. The Department was represented by Eugene Brown.

**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 received Food Assistance Program (FAP) benefits as a household of three people totaling \$[REDACTED] from September 1, 2020, through February 28, 2022. Exhibit A, pp 18-19.
2. Petitioner was employed and received earned income from June 18, 2021, through February 11, 2022. Exhibit A, pp 33-34.
3. Department records indicate that during an interview on September 22, 2021, Petitioner reported that her two children were receiving social security payments. Exhibit A, pp 52-55.
4. Petitioner’s two children both received monthly Retirement, Survivors, and Disability Insurance (RSDI) benefits in the gross monthly amounts of \$[REDACTED] from September 21, 2021, through December 31, 2021, and in the gross monthly amounts of \$[REDACTED] from January 1, 2022, through February 28, 2022. Exhibit A, pp 38 and 42.

5. On November 28, 2023, the Department sent Petitioner a Notice of Overissuance instructing her that she had received a \$[REDACTED] overissuance of Food Assistance Program (FAP) benefits during the period of September 1, 2021, through February 28, 2022, due to Retirement, Survivors, and Disability Insurance (RSDI) income that was not applied towards the household's eligibility for benefits. Exhibit A, p 9.
6. On January 11, 2024, the Department received Petitioner's request for a hearing protesting the recoupment of Food Assistance Program (FAP) benefits. Exhibit A, pp 4-6.

### **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 as a household of three and she received FAP benefits totaling \$[REDACTED] from September 1, 2020, through February 28, 2022. Petitioner was employed during that period. On September 22, 2021, Petitioner reported to the Department that her children were receiving social security benefits.

Due to Department error, the Retirement, Survivors, and Disability Insurance (RSDI) benefits that Petitioner's children were receiving was not applied to the household's eligibility for FAP benefits. Those social security payments were countable income for the purposes of FAP eligibility. If those RSDI payments had been applied towards the household's eligibility for FAP benefits, the Department would have not granted any FAP benefits based on the household's total income. Petitioner's total household income exceeded \$2,353, which was the gross monthly income limit for a household of three. Department of Health and Human Services Reference Table Manual (RFT) 250 (October 1, 2019).

Petitioner, like all other FAP recipients, was receiving the maximum allotment of FAP benefits available for her household size under emergency rules put in place under the

pandemic. Further, Petitioner received an additional 15% supplement of FAP benefits in September of 2021 authorized by the Consolidated Appropriations Act of 2021, which the Department does not have the authority to recoup.

Petitioner argues that she should not be obligated to repay an overissuance of FAP benefits that was created by Department error.

However, federal law requires the Department to initiate recoupment of FAP benefits issued in error, and there was no entitlement to FAP benefits that Petitioner was not eligible for.

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 a \$ [REDACTED] overissuance of Food Assistance Program (FAP) benefits.

### **DECISION AND ORDER**

Accordingly, the Department's decision is AFFIRMED.

KS/dm

  
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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**  
Rolando Gomez  
Tuscola County DHHS  
**MDHHS-Tuscola-  
Hearings@michigan.gov**

**DHHS Department Rep.**  
Overpayment Establishment Section  
(OES)  
**MDHHS-RECOUPMENT-  
HEARINGS@Michigan.gov**

**HoldenM**

**DensonSogbakaN**

**BSC2HearingDecisions**

**MOAHR**

**Via-First Class Mail :**

**Petitioner**

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