



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



Date Mailed: July 11, 2024  
MOAHR Docket No.: 24-005071  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: L. Alisyn Crawford**

### **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 1, 2024. Petitioner was present at the hearing and represented himself. The Department of Health and Human Services (Department) was represented by Annette Fullerton, Overpayment Establishment Analyst.

### **ISSUE**

Did Petitioner receive an overpayment (OP) of Food Assistance Program (FAP) benefits due to client error 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. At all times relevant to this case, Petitioner was an ongoing recipient of FAP benefits for a group of seven (7).
2. Petitioner's group included himself, his wife, and their five minor children.
3. Petitioner is employed at [REDACTED] (Employer).
4. On April 10, 2020, Petitioner submitted an assistance application for FAP benefits for himself and his household. (Exhibit A, pp. 58-65). Petitioner indicated on the application that he was laid off. (Exhibit A, p. 64).
5. On April 15, 2020, the Department sent Petitioner a Notice of Case Action (NOCA) informing him that he was approved for FAP benefits with a benefit amount of \$426

for a household size of seven (7). (Exhibit A, pp.71-76). The notice also informed Petitioner of his responsibilities as a simplified reporter and informed him that if the household's earned or unearned income has changed by more than \$100, he would need to report the change to the Department. (Exhibit A, p. 77).

6. On August 7, 2020, the Department sent Petitioner a NOCA informing him that his FAP benefit amount would increase to \$792 for a household of seven (7) effective September 1, 2020 through April 30, 2021. (Exhibit A, pp. 84-88).
7. On March 24, 2021, Petitioner submitted a redetermination to the Department for FAP benefits and did not report any changes to his laid off status from Employer. (Exhibit A, p. 68).
8. During a FAP interview on April 1, 2021, Petitioner disclosed that he was working 40 hours per week at Employer and paid weekly. (Exhibit A, p. 91).
9. Between July 1, 2020 through April 30, 2021, the alleged OP period, Petitioner received a total of \$10,687 in ongoing and supplemental FAP benefits. (Exhibit A, p. 13).
10. On April 6, 2021, the Department made an Overissuance Referral based on unreported earnings for Petitioner. (Exhibit A, p. 10).
11. On April 8, 2024, the Department sent a Notice of Overissuance to Petitioner indicating Petitioner was overpaid FAP benefits during the period of July 1, 2020 through April 30, 2021 in the amount of \$10,687. (Exhibit A, pp. 12-14).
12. On April 25, 2024, Petitioner submitted a request for hearing to the Department disputing the Department's FAP OP determination. (Exhibit A, pp. 3-7).

### **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.

Petitioner disputes the Department's finding that he was overpaid \$10,687 in FAP benefits from July 1, 2020 through April 30, 2021, due to client error.

When a client, household, or provider receives more benefits than eligible to receive, the Department must attempt to recoup the overpayment (OP). BAM 700 (June 2024), p. 1. The amount of a FAP OP is the benefit amount the client actually received minus the amount the client was eligible to receive. BAM 705 (June 2024), p. 2; 7 CFR 273.18(c)(1). An OP can be caused by client error, agency error, or an intentional program violation (IPV). BAM 700, p. 2). A client error is a type of overpayment resulting from inaccurate reporting on the part of the household. BAM 700, p. 2. Additionally, each adult member of a household is responsible for payment of claims. 7 CFR 273.18(a)(4). Federal regulations do not allow the Department latitude to exercise discretion in establishing and pursuing a claim for OI. 7 CFR 273.18(a)(2). The Department must go back to at least twelve months before it became aware of the overpayment; however, it cannot include amounts that occurred more than six years before it became aware of the overpayment. 7 CFR 273.18(c)(i); BAM 715, p. 3. Because the referral to the recoupment specialist was made in the case on April 6, 2021 (Exhibit A, p. 10), the Department may properly pursue an OP against Petitioner for the period July 1, 2020 through April 30, 2021, which is a period that starts within twelve months prior to the referral date and within six years of when it became aware of the overpayment.

In this case, the Department contended that Petitioner failed to report his income or changes in income to the Department as required by policy. When Petitioner applied for FAP benefits for himself and his household on April 10, 2020, he reported that he was laid off from Employer. (Exhibit A, pp. 58-65). In a March 24, 2021 redetermination form, Petitioner affirmed that he was still laid off and receiving unemployment. (Exhibit A, pp. 66-70). However, based on a review of his case by the Department, Petitioner's unemployment benefits ended May 23, 2020, and he returned to work at Employer on May 22, 2020. (Exhibit A, p. 1). During the alleged OP period, the Department continued to issue Petitioner FAP benefits based on unemployment benefits of [REDACTED] per week. Based on the above, the Department properly determined that a client error occurred.

In support of its calculations of an OP, the Department presented OP budgets for each month of the OP period. The Department testified that it calculated the OP total for these periods by calculating what Petitioner's FAP budget would have been for each month during the OP period had the group's earned income been included in the household budget. BEM 505 (October 2023), pp. 13-14; (Exhibit A, pp. 24-43). To calculate Petitioner's group's income for purposes of determining the OP, the Department utilized employment income information for Petitioner from the Work Number database.<sup>1</sup>

A review of the OP budgets shows that the Department correctly calculated Petitioner's group's earned monthly income for Petitioner based on actual gross pay for each month at issue. (Exhibit A, pp. 22-43). Based on the group's earned income during the OP period, Petitioner's FAP group was not eligible for any FAP benefits from July 1, 2020

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<sup>1</sup> The Work Number is a tool provided by Equifax Verification Services that the Department uses to verify clients' employment information through wage matches.

through April 30, 2021 due to either having excess gross income or excess net income for the 7-person FAP group. During this period, Petitioner was issued \$10,687 in FAP. Therefore, Petitioner received an OP of FAP benefits totaling \$10,687. The Department's FAP OP budgets correctly reflect that Petitioner should not have received any FAP benefits for that period. (Exhibit A, p. 13; see also RFT 250 (October 2019 and October 2020) and RFT 260 (October 2019 and January 2021). Therefore, the OP of FAP benefits is \$10,687.

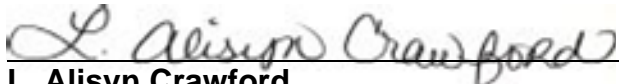
At the hearing, Petitioner expressed concerns that he is unable to repay the FAP OP given his limited income. While collectability of an OP is not within the purview of the undersigned, it is noted that all adult members of a FAP group that received an OP of FAP benefits are responsible for the FAP OP. 7 CFR 273.18(a)(4). Petitioner is further advised that the Department can compromise (reduce or eliminate) an overpayment if it is determined that a household's economic circumstances are such that the overpayment cannot be paid within three years, but such a request for a policy exception may be made only by the recoupment specialist to the Overpayment, Research and Verification Section office outlining the facts of the situation and the client's financial hardship; the manager of the MDHHS Overpayment, Research and Verification Section has final authorization on the determination for all compromised claims. BAM 725 (January 2021), p. 16.

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 its policies and the applicable law when it determined an OP of FAP benefits to Petitioner's FAP group exists, due to client error, and the Department is entitled to recoup.

### **DECISION AND ORDER**

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

LC/ml

  
**L. Alisyn Crawford**  
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**

Jared Ritch  
Oakland County Pontiac-Woodward Dist.  
51111 Woodward Ave 5th Floor  
Pontiac, MI 48342  
**MDHHS-Oakland-District-IV-Hearings@michigan.gov**

**DHHS Department Rep.**

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

**Interested Parties**

BSC4  
M. Holden  
B Cabanaw  
N Denson-Sogbaka  
MOAHR

**Via First Class Mail:**

**Petitioner**

[REDACTED]  
MI [REDACTED]