



GRETCHEN WHITMER  
GOVERNOR

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

MARLON BROWN  
DIRECTOR

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

Date Mailed: June 26, 2024  
MOAHR Docket No.: 24-005618  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Julia Norton**

### **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 June 20, 2024. Petitioner was present and self-represented. The Department of Health and Human Services (Department) was represented by Angela Ware, Eligibility Specialist.

### **ISSUE**

Did the Department issue the correct amount of Food Assistance Program (FAP) benefits to Petitioner for March and April 2024?

Did the Department properly apply administratively recouped FAP benefits to the overpayment (OP) that Petitioner owed the Department?

### **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 recipient of FAP benefits.
2. Petitioner had a prior Intentional Program Violation (IPV) disqualification that resulted in her being disqualified from her FAP group from February 1, 2021 through January 31, 2022 and being responsible for repaying the Department \$2,150.00 for an overpayment (OP) of FAP benefits which occurred between November 2017 and November 2018. Exhibit A, pp. 26-28.
3. Petitioner submitted a redetermination on January 31, 2024.

4. The Department certified a benefit period of February 1, 2024 to January 31, 2025 for a group size of four, consisting of Petitioner and her three children.
5. On April 10, 2024, the Department sent Petitioner a Notice of Case Action (NOCA) informing Petitioner that her FAP benefits were approved for a group size of 4 for February 2024 for \$242.00; March 2024 for \$778.00; April 2024 for \$729.00; and May 1, 2024 to January 31, 2025 for \$484.00 monthly. Exhibit A, pp. 6-12.
6. The Department withheld a \$53.00 monthly recoupment from Petitioner's May 1, 2024 to January 31, 2025 monthly benefit amount, resulting in a monthly FAP benefit of \$484.00 per month. Exhibit A, p. 30.
7. The NOCA indicated that Petitioner owed the Department a balance of \$3,179.00 for overpaid FAP benefits. Exhibit A, p. 10.
8. On April 10, 2024, the Department issued Petitioner FAP benefits of \$242.00 for each of the months of February, March and April 2024 and \$484.00 for May 2024.
9. On May 6, 2024, the Department received Petitioner's request for hearing disputing the amount of FAP benefits she received. Exhibit A, p. 37.

### **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 disputes the amount of benefits the Department issued for the months of March and April 2024. Petitioner was approved for FAP benefits of \$778.00 for March 2024 and \$729.00 for April 2024. However, the Department testified that it only issued \$242.00 of FAP benefits to Petitioner for each of those months. Petitioner's benefits were subject to an administrative recoupment due to an overpayment (OP), but the recoupment amount was only 10 percent of the total monthly entitlement.

When a household receives more benefits than what the recipient(s) was eligible to receive, the Department must attempt to recover the OP. BAM 700 (June 2024), p.1. Types of FAP OPs include agency error, client error, and IPV. *Id.*, p.2. OPs on active

programs are repaid by lump-sum cash payments, monthly cash payments such as when court-ordered or processed by Attorney General, and administrative recoupment (benefit reduction). BAM 725 (January 2021), p.5. FAP benefits are reduced for recoupment by a percentage of the monthly FAP entitlement. *Id.*, p. 7. Administrative recoupment occurs only on current month issuances and automatically changes when the monthly issuance amount changes. The standard administrative recoupment percentage applies unless a court has ordered a different administrative recoupment percentage or a specific dollar amount. *Id.* The standard administrative recoupment percentage for FAP is 10 percent (or \$10, whichever is greater) for agency error; 10 percent (or \$10, whichever is greater) for client error; or 20 percent (or \$20, whichever is greater) for IPV.

Here, Petitioner's active FAP benefits were subject to an administrative recoupment stemming from an IPV with an associated OP of \$2,150.00 in FAP benefits. Petitioner acknowledged being subject to an OP due to the IPV. The Department testified to the budgets for February and March, though they were not included in the Department's exhibits, and presented budgets for April and May 2024. The Department testified that Petitioner's monthly FAP benefits fluctuated because Petitioner's income fluctuated during those months. Petitioner did not dispute the income used or calculation of her monthly FAP budgets for February 2024 ongoing. Even though the OP in this case, based on the evidence presented by the Department, was associated with an IPV entitling the Department to apply the standard administrative recoupment percentage of 20%, the Department testified that it was recouping 10 percent of Petitioner's monthly FAP entitlement to apply towards Petitioner's outstanding indebtedness to the Department. For February, Petitioner's FAP entitlement was \$268.00, less \$26.00 recoupment, for a benefit amount of \$242.00. For March, Petitioner's FAP entitlement was \$864.00, less \$86.00 recoupment, for a benefit amount of \$778.00. For April, Petitioner's FAP entitlement was \$810.00, less \$81.00 recoupment, for a benefit amount of \$729.00. Exhibit A, pp. 34-36. For May, Petitioner's FAP entitlement was \$537.00, less \$53.00 recoupment, for a benefit amount of \$484.00. Exhibit A, pp. 30-32. Petitioner specifically disputed the benefit amounts issued for March and April 2024 because she only received \$242.00 for each month.

The Department acknowledged that after reducing the FAP entitlements by the recoupment amounts, Petitioner's benefits were \$778.00 for March and \$729.00 for April but could not explain why it had only issued FAP benefits of \$242.00 for both March and April 2024. The Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it issued Petitioner FAP benefits of \$242.00 for March and April 2024 rather than \$778.00 for March and \$729.00 for April 2024.

Petitioner acknowledged owing the \$2,150.00 associated with the prior IPV, but explained she thought the Department had recouped the amount due. However, the NOCA listed an OP balance of "\$4,261.00 for a previously establis[h]ed overissuance(s)" that, based on \$1,082.00 in FAP benefits the Department stated it owed Petitioner for FAP issued between June 1, 2023 and December 31, 2023, was reduced to \$3,179.00. Administrative recoupment for repayment of FAP OPs continues until program closure or all collectible OPs are repaid. BAM 725, p. 6. Furthermore, FAP supplements to restore lost benefits

are automatically offset to a client's outstanding debt to the Department to repay FAP OPs. BAM 725, p. 8. While the Department could properly apply amounts it owed Petitioner to reduce her overall OP amount, the Department could not explain what payments had been applied to the OP, why the OP balance due was higher than the total amount of the OP associated with the prior IPV or if there had been subsequent OPs on Petitioner's case.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it issued Petitioner's March and April 2024 FAP benefits.

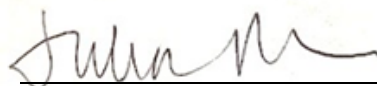
### **DECISION AND ORDER**

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

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Review Petitioner's case to verify the outstanding amount Petitioner owes the Department and ensure all recoupment payments were properly applied;
2. Provide Petitioner an accounting of the amount owed and payments applied;
3. Review Petitioner's March and April 2024 FAP benefit eligibility and issue supplements for any benefit amount that Petitioner was eligible for but did not receive; and
4. Notify Petitioner of its decision in writing.

JN/cc



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**Julia Norton**  
Administrative Law Judge

