



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]

Date Mailed: October 16, 2024  
MOAHR Docket No.: 24-006760  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Zainab A. Baydoun**

**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 7, 2024, from Detroit, Michigan. Petitioner appeared for the hearing and represented himself. The Department of Health and Human Services (Department) was represented by Minnie Egbunu, Overpayment Establishment Analyst. Gehad Helmy served as Arabic interpreter.

**ISSUE**

Did Petitioner receive a client error overissuance (OI) of Food Assistance Program (FAP) benefits 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. On or around [REDACTED] 2020, Petitioner submitted an application requesting FAP benefits. On the application, Petitioner reported that he is not employed and that he receives unearned income from unemployment compensation benefits (UCB). (Exhibit A, pp. 56-62)
2. On or around September 4, 2020, the Department sent Petitioner a Notice of Case Action advising him that his FAP application was approved and that his FAP benefits were determined based on [REDACTED] in earned income and [REDACTED] in unearned income. The notice also advised Petitioner that he was required to report changes in employment and/or income within 10 days of the change. (Exhibit A, pp. 45-50)

3. In May 2021, the Department became aware through a Wage Match that in August 2020, Petitioner had gained employment at [REDACTED] (Employer) and was receiving income. (Exhibit A, pp. 42-44)
4. The Department completed an Overissuance Referral, as it determined that the income was unreported and was not budgeted or considered in the household FAP eligibility. (Exhibit A, p. 64)
5. The Department obtained information from the Work Number showing that Petitioner gained employment on August 24, 2020, and received his first paycheck on September 4, 2020. (Exhibit A, pp. 38-41)
6. On or around May 21, 2024, the Department sent Petitioner a Notice of Overissuance informing him that he received a client error caused OI of FAP benefits in the amount of \$3,414, for the period of December 1, 2020, to April 31, 2021, because he failed to timely report his employment and income, which resulted in excess income and ineligibility for FAP benefits. (Exhibit A, pp. 7-14)
7. On or around May 28, 2024, Petitioner requested a hearing disputing the Department's actions. (Exhibit A, pp.4-5)

### **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, on May 21, 2024, the Department sent Petitioner a Notice of Overissuance informing him that he received a client error caused OI of FAP benefits in the amount of \$3,414, for the period of December 1, 2020, through April 30, 2021, because he failed to timely report that he gained employment with Employer and was receiving income, which resulted in excess income and ineligibility for FAP benefits. The specific months of overissued FAP benefits were identified on the Notice of Over issuance as December 2020, January 2021, March 2021, and April 2021.

Clients must report changes in circumstances that potentially affect eligibility or benefit amount. Changes such as starting or stopping employment, earning income, and starting or stopping a source of unearned income must be reported within ten days of receiving

the first payment reflecting the change. BAM 105 (July 2020), pp. 9-12; 7 CFR 273.12(a)(1); 7 CFR 273.21. Additionally, when a client group receives more benefits than they are entitled to receive, the Department must attempt to recoup the OI. BAM 700 (October 2018), p. 1. A client error OI occurs when the client received more benefits than they were entitled to because the client gave incorrect or inaccurate information to the Department. BAM 700, pp. 4-6. An agency error OI is caused by incorrect actions by the Department, including delayed or no action, which result in the client receiving more benefits than they were entitled to receive. BAM 700, pp. 4-6. The amount of the overissuance is the benefit amount the group actually received minus the amount the group was eligible to receive. BAM 715 (October 2017), p. 6; BAM 705 (October 2018), p. 6.

In this case, the Department representative asserted that Petitioner failed to timely report that he gained employment and was receiving income from Employer within 10 days of receiving his first paycheck on September 4, 2020. The Department representative testified that in May 2021, the Department became aware through a wage match that Petitioner had gained employment and thus, the Department verified his income and employment through the Work Number, which confirmed that Petitioner gained employment on August 24, 2020, and received his first paycheck on September 4, 2020.

Petitioner confirmed that he was employed and earning income during the over issuance period. Petitioner testified that he went to ACCESS, a social services organization to assist him with reporting his income but did not receive any assistance as all offices were closed due to the Covid-19 pandemic. Despite Petitioner's testimony, there was no evidence presented that Petitioner timely reported to the Department that he was employed and earning income. There was no documentation presented in support of Petitioner's testimony. Because the Department had no record of Petitioner timely reporting the income, the Department properly determined that the OI in this case was due to client error.

Due to the COVID-19 pandemic, the federal government authorized the State of Michigan to issue Emergency Allotments (EA) to all FAP households, meaning that FAP households not receiving the maximum benefit for their group size would receive a supplement to bring their benefit amount to the maximum for their group size. ESA Memo 2020-15 (March 2020). The State of Michigan issued EA from April 2020 to October 2022. ESA Memo 2022-39 (January 2022). COVID-19 EA were approved for every month during the alleged OI period of December 2020 through April 2021. In addition, beginning in May 2021, MDHHS began issuing a minimum \$95 supplement to all FAP households, including households that were already receiving the maximum allotment for their household size. ESA Memo 2021-22 (May 2021). Wrongfully issued EA are recoupable by MDHHS if the FAP household is not eligible for any FAP benefits during the month at issue.

The Department presented a benefit summary inquiry and an issuance summary to establish that during the OI period between December 2020 and April 2021, it issued \$3,414 in recoupable FAP benefits to Petitioner. The benefit summary inquiry shows that

each month in the OI period include an ongoing monthly payment and a recoupable supplemental payment. The Department representative explained that in calculating the OI, it considered only the ongoing monthly allotment issued to Petitioner and the EA supplements referenced above. The Department asserted that during the months of December 2020, January 2021, March 2021, and April 2021 in the OI period, Petitioner was eligible for \$0 in FAP benefits.

In support of its OI case, the Department presented the Work Number, verifying that Petitioner had earnings from Employer beginning on or around September 4, 2020. It was also established that in consideration of Petitioner's first pay date, the Department properly determined that the first month in the OI period would be December 2020, as the Department is to apply the 10-day client reporting period, the 10-day processing period, and the 12-day negative action suspense period. The Department also presented FAP OI budgets for each month in the overissuance period showing how Petitioner's earned income was calculated each month and how the total OI amount was determined. Upon review, after including Petitioner unreported earned income in the calculation of Petitioner's household FAP eligibility, Petitioner's group was eligible to receive \$0, in FAP benefits during the months of December 2020, January 2021, March 2021, and April 2021, as Petitioner's income exceeded the income limit based on his group size.


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 established a client error OI of FAP benefits in the amount of \$3,414 from December 2020 to April 2021.

### **DECISION AND ORDER**

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

The Department is ORDERED to initiate recoupment and/or collection procedures for a \$3,414 client error FAP OI in accordance with Department policy, less any amount that has already been recouped/collected.

ZB/ml

  
**Zainab A. Baydoun**  
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**  
Tara Roland 82-17  
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**DHHS Department Rep.**  
Overpayment Establishment Section (OES)  
235 S Grand Ave, Ste 811  
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**MDHHS-RECOUPMENT-HEARINGS@Michigan.gov**

**Interested Parties**  
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M. Holden  
B Cabanaw  
N Denson-Sogbaka  
MOAHR

**Via First Class Mail:**

**Petitioner**  
[REDACTED]  
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