



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

[REDACTED], MI [REDACTED]

Date Mailed: July 25, 2024  
MOAHR Docket No.: 24-006832  
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 15, 2024. Petitioner was present and represented himself. The Department of Health and Human Services (Department) was represented by Eugene Brown, Overpayment Establishment Analyst.

### **ISSUE**

Did the Department properly decrease Petitioner's monthly Food Assistance Program (FAP) benefits due to a 2018 overissuance/overpayment (OP) of \$7,028?

### **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 January 26, 2018, a hearing decision under MOAHR docket number 17-010157 was issued finding that (1) the Department established by clear and convincing evidence that Petitioner committed an intentional program violation (IPV) due to failure to report two drug-related felonies, and (2) Petitioner received a finding of OP of FAP benefits from January 24, 2012 to April 30, 2016 in the amount of \$7,028 that the Department was entitled to recoup. (Exhibit A, pp. 89-94).
2. The January 26, 2018 hearing decision also provided Petitioner with information on how to file an appeal to the circuit court and how to request a rehearing/reconsideration of the hearing decision to the Michigan Administrative Hearing System (now the Michigan Office of Administrative Hearings and Rules (MOAHR)). Petitioner's 12-month IPV disqualification sanction began on March 1, 2018 and ended on February 28, 2019. (Exhibit A, p. 10).

3. Petitioner is a current recipient of FAP benefits, and his current monthly FAP allotment is reduced by a \$58 administrative recoupment.
4. On May 29, 2024, Petitioner filed a request for hearing disputing his current FAP benefit amount. (Exhibit A, p. 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.

Petitioner requested a hearing to dispute his FAP case. At the hearing, Petitioner argued that the Department's continued recoupment from his ongoing FAP benefit was improper and/or unlawful because as of October 2020 having two felony drug convictions would no longer preclude an individual from receiving FAP.

The IPV decision concerned an OP for benefits issued between January 24, 2012 to April 30, 2016, when the policy precluded individuals with two felony drug convictions from getting FAP benefits. While the law and Department policy did change effective October 1, 2020 (BEM 203) (MCL 400.14m) and no longer made individuals with two or more felony drug convictions ineligible for FAP, those changes did not provide for any retroactive effect, and Petitioner failed to provide any legal basis that the OP should be dismissed based on the change effective October 1, 2020. See also Economic Stability Administration (ESA) Memo 2020-44 dated October 5, 2020 explaining that per Public Act 166 and Senate Bill 1006, individuals who have been convicted of two or more drug-related felonies for conduct which occurred after August 22, 1996 were no longer disqualified from receiving FAP benefits effective October 1, 2020.

Further, a review of the MOAHR records shows that Petitioner did not timely request rehearing and/or reconsideration or file an appeal to the Circuit Court of the January 26, 2018 IPV Hearing Decision under MOAHR docket number 17-010157, and that decision has not been reversed. Therefore, per Department policy, Petitioner is responsible for the OP, and the Department can administratively recoup from active FAP benefits. BAM 725 (January 2021), p. 3.

Petitioner is a current recipient of FAP benefits. At the hearing, the Department testified that Petitioner has a remaining recoupment balance of \$3,008, with \$58 being recouped from Petitioner's monthly FAP benefit. (Exhibit A, p. 8). Here, Petitioner is the sole member of his household, and was properly considered by the Department as a single-member FAP group. The maximum FAP allotment for a single-member FAP group is \$291 per month. RFT 260 (October 2023), p. 1. When a client has a FAP IPV, they are subject to an administrative recoupment of their FAP benefits, and FAP benefits are reduced for recoupment by a percentage of the monthly FAP entitlement. BAM 725 (January 2021), p. 7. Per Department policy, the standard administrative recoupment percentage for a FAP IPV is 20 percent (or \$20, whichever is greater). BAM 725, p. 8. Therefore, the Department is entitled to recoup 20 percent of Petitioner's \$291 monthly FAP entitlement, which is \$58. Therefore, the Department properly calculated Petitioner's monthly FAP IPV recoupment amount and the monthly FAP recoupment amount of \$58 is appropriate.

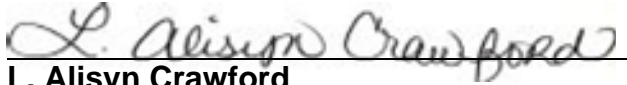
Based on the testimony and evidence presented, Petitioner does not have a legal basis to challenge the administrative recoupment imposed by the Department.

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 applied the administrative recoupment to Petitioner's FAP monthly benefit amount due to an established OP finding from 2018.

#### **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**

Jeanenne Broadnax  
Wayne-Taylor-DHHS  
25637 Ecorse Rd.  
Taylor, MI 48180

**MDHHS-Wayne-18-Hearings@michigan.gov**

**DHHS Department Rep.**

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

**Interested Parties**

BSC4  
M. Holden  
B Cabanaw  
N Denson-Sogbaka  
MOAHR

**Via First Class Mail:**

**Petitioner**

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