



STATE OF MICHIGAN

GRETCHEN WHITMER  
GOVERNOR

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

MARLON BROWN  
DIRECTOR

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

Date Mailed: September 26, 2024  
MOAHR Docket No.: 24-009249  
Agency No.: [REDACTED]  
Petitioner: [REDACTED] [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Colleen Lack**

**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 September 17, 2024, from Lansing, Michigan. [REDACTED] [REDACTED] the Petitioner, appeared on his own behalf. The Department of Health and Human Services (Department) was represented by Anna Peterson, Overpayment Establishment Analyst (OEA).

During the hearing proceeding, the Department’s Hearing Summary packet was admitted as Exhibit A, pp. 1-71.

**ISSUE**

Did the Department properly determine that Petitioner received Food Assistance Program (FAP) benefits that he was not eligible for and must be recouped?

**FINDINGS OF FACT**

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. From July 1, 2023 to December 31, 2023 Petitioner received FAP benefits subject to recoupment totaling \$[REDACTED] (Exhibit A, p. 17)
2. On May [REDACTED] 2023, Petitioner applied for FAP for himself. Petitioner reported no income from employment at that time. (Exhibit A, pp. 62-68)
3. On June [REDACTED] 2023, a Notice of Case Action was issued to Petitioner approving FAP for a household size of one. A budget summary was included showing no earned

income was included in the FAP budget. The Notice indicated Petitioner was a simplified reporter. Petitioner was only required to report lottery or gambling winnings over a specified amount and when household gross monthly income exceeded \$1,473.00. A change in income over this amount was to be reported by the 10<sup>th</sup> day of the following month, A simplified six-month review was included. (Exhibit A, pp. 40-47)

4. On September █ 2023, Petitioner submitted a Semi-Annual Contact Report and reported that the household income had not changed by more than \$125.00 from \$0.00. (Exhibit A, pp. 59-61)
5. On October █ 2023, a Notice of Case Action was issued to Petitioner approving FAP for a household size of one. A budget summary was included showing no earned income was included in the FAP budget. The Notice indicated Petitioner was a simplified reporter. Petitioner was only required to report lottery or gambling winnings over a specified amount and when household gross monthly income exceeded \$█. A change in income over this amount was to be reported by the 10<sup>th</sup> day of the following month, A simplified six-month review was included. (Exhibit A, pp. 33-39)
6. A Wage History showed that Petitioner had earnings from employment with █ and █ in the second quarter of 2023; █ and █ in the third quarter of 2023; and █ and █ in the fourth quarter of 2023. (Exhibit A, p. 51)
7. A report from The Work Number documented that Petitioner started employment with █ with a most recent start date of February 14, 2022. Earnings from March 11, 2022 through December 8, 2023 were documented. (Exhibit A, pp. 52-55)
8. A report from The Work Number documented that Petitioner started employment with █ with a most recent start date of October 7, 2021. Earnings from October 6, 2023 through December 8, 2023 were documented. (Exhibit A, pp. 56-58)
9. The Department determined that Petitioner was overissued FAP benefits from July 1, 2023 to December 31, 2023 in the amount of \$█ due to client error of failing to properly report earnings from employment. (Exhibit A, pp. 18-32)
10. On July █ 2024, the Department sent Petitioner a Notice of Overissuance instructing him that a \$█ overissuance of FAP benefits occurred from July 1, 2023 to December 31, 2023 due to client error and would be recouped. (Exhibit A, pp. 9-14)
11. On August 6, 2024, the Department received Petitioner's request for a hearing protesting the recoupment of FAP benefits. (Exhibit A, pp. 3-4)

## 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.

Pursuant to BAM 105, clients have a responsibility to cooperate with the Department in determining initial and ongoing eligibility. Clients must completely and truthfully answer all questions on forms and in interviews. BAM 105, March 1, 2024, p. 7. Clients must also report changes in circumstance that potentially affect eligibility or benefit amount within 10 days. This includes changes with income. BAM 105, pp. 10-12.

For FAP, the Department will act on a change reported by means other than a tape match within 10 days of becoming aware of the change. A change report by tape match is to be acted upon within 15 workdays. BAM 220, November 1, 2023, p. 7. A pended negative action occurs when a negative action requires timely notice based on the eligibility rules in this item. Timely notice means that the action taken by the department is effective at least 12 calendar days following the date of the department's action. BAM 220, p. 13.

When a client group receives more benefits than it is entitled to receive, the Department must attempt to recoup the overpayment. BAM 700, June 1, 2024, p. 1. An agency error is a type of overpayment or underissuance resulting from an incorrect action or failure to take action by the state agency. A client error is a type of overpayment or underissuance resulting from inaccurate reporting on the part of the household. BAM 700, p. 5. Agency and client errors are not pursued if the OP amount is equal to or less than \$250 per program. BAM 700 p. 5.

The Department determined that Petitioner was overissued FAP benefits from July 1, 2023 to December 31, 2023 in the amount of \$██████████ due to client error of failing to properly report earnings from employment. (Exhibit A, pp. 18-32). Accordingly, on July ██████████ 2024, the Department sent Petitioner a Notice of Overissuance instructing him that a \$██████████ overissuance of FAP benefits occurred from July 1, 2023 to December 31, 2023 due to client error and would be recouped. (Exhibit A, pp. 9-14). The Department asserted that Petitioner failed to accurately report income from ██████████ ██████████ at the time of application and failed to report the income from the additional two employers, which started after the application. (Exhibit A, p. 1).

On May [REDACTED] 2023, Petitioner applied for FAP for himself. Petitioner reported no income from employment at that time. (Exhibit A, pp. 62-68). On September [REDACTED] 2023, Petitioner submitted a Semi-Annual Contact Report and reported that the household income had not changed by more than \$125.00 from \$0.00. (Exhibit A, pp. 59-61).

However, a Wage History showed that Petitioner had earnings from employment with [REDACTED] and [REDACTED] in the second quarter of 2023; [REDACTED] and [REDACTED] in the third quarter of 2023; and [REDACTED] [REDACTED] and [REDACTED] in the fourth quarter of 2023. (Exhibit A, p. 51). A report from The Work Number documented that Petitioner started employment with [REDACTED] [REDACTED] with a most recent start date of February 14, 2022. Documented earnings included the period of June 16, 2022 through December 8, 2023. (Exhibit A, pp. 52-55). A report from The Work Number documented that Petitioner started employment with [REDACTED] [REDACTED] [REDACTED] with a most recent start date of October 7, 2021. Earnings from October 6, 2023 through December 8, 2023 were documented. (Exhibit A, pp. 56-58). The Department averaged the quarterly earnings from [REDACTED] to determine the monthly earnings. (Exhibit A, p. 51).

From July 1, 2023 to December 31, 2023 Petitioner received FAP benefits subject to recoupment totaling \$[REDACTED] (Exhibit A, p. 17). When the earnings from employment were utilized to re-determine eligibility, Petitioner was only eligible to receive \$[REDACTED] in FAP benefits during the overissuance period. (Exhibit A, pp. 18-32). Accordingly, the Department determined that Petitioner was overissued FAP benefits from July 1, 2023 to December 31, 2023 in the amount of \$[REDACTED] due to client error of failing to properly report earnings from employment. (Exhibit A, pp. 18-32).

Petitioner indicated that his work at [REDACTED] was really doing the same job for the same group of people. (Petitioner Testimony). While this may be true, it does not change that Petitioner reported no employment income at application and on the Semi-Annual Contact report. (Exhibit A, pp. 60, 62, and 65).

This Administrative Law Judge (ALJ) must review the Department's determination under the applicable Department policies. The ALJ has not authority to change or make any exception to Department policy. The above cited BAM 700 policy requires the Department to recoup the overissuance when a client group receives more benefits than it is entitled to receive. This includes overpayments caused by client or agency error when the amount is at least \$250 per program.

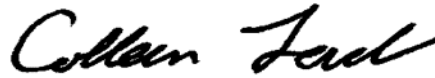
Overall, the evidence supports the Department's determination that Petitioner received an overpayment of FAP benefits from July 1, 2023 to December 31, 2023 in the amount of \$[REDACTED]. Therefore, the Department properly sought recoupment of a \$[REDACTED] overissuance of FAP benefits from Petitioner. There was insufficient evidence to establish that Petitioner accurately reported employment income at application or when household income exceeded the simplified reporting limit. Therefore, the overpayment was due to client error of failing to accurately and timely report the employment income.

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 the \$1,647.00 overpayment of FAP benefits from July 1, 2023 to December 31, 2023 due to client error, which must be recouped.

**DECISION AND ORDER**

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



CL/dm

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**Colleen Lack**  
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**

Janice Collins  
Genesee County DHHS Union St  
District Office  
**MDHHS-Genesee-UnionSt-  
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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