



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

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Date Mailed: October 1, 2024  
MOAHR Docket No.: 24-009921  
Agency No.: ██████████  
Petitioner: ██████████

**ADMINISTRATIVE LAW JUDGE: Danielle R. Harkness**

**HEARING DECISION**

On June 13, 2024, Petitioner, ██████████, requested a hearing to dispute a Food Assistance Program (FAP) benefit overpayment. Following Petitioner's hearing request, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9, 7 CFR 273.15, 45 CFR 205.10, and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on October 1, 2024. Petitioner appeared and represented himself. The Department of Health and Human Services (Department) was represented by Eugene Brown, Overpayment Establishment Analyst.

An 83-page packet of documents provided by the Department was admitted collectively as the Department's Exhibit A.

**ISSUE**

Did the Department properly determine that Petitioner owes the Department a debt of \$3,504.00 for FAP benefits that were overpaid to Petitioner from March 1, 2021, through August 31, 2021, due to a client error?

**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 ██████████, 2020, Petitioner applied for FAP benefits.
2. On October 21, 2020, the Department mailed a Notice of Case Action to Petitioner to notify Petitioner that Petitioner was approved for a FAP benefit of \$83.00 from October 13, 2020, through October 31, 2020, and \$136.00 per month from November 1, 2020, through September 30, 2021. The notice instructed Petitioner that Petitioner must report any changes in employment or income to the Department within 10 days.
3. On January 30, 2021, the Department mailed a Notice of Case Action to Petitioner to notify Petitioner that Petitioner was approved for a FAP benefit of \$217.00 per month from February 1, 2021, through September 30, 2021. The

notice instructed Petitioner that Petitioner must report any changes in employment or income to the Department within 10 days.

4. From March 1, 2020, through August 31, 2021, Petitioner received the following in unemployment compensation benefits (UCB):
  - a. \$ [REDACTED] in [REDACTED] 2021,
  - b. \$ [REDACTED] in [REDACTED] 2021,
  - c. \$ [REDACTED] in [REDACTED] 2021,
  - d. \$ [REDACTED] in [REDACTED] 2021,
  - e. \$ [REDACTED] in [REDACTED] 2021, and
  - f. \$ [REDACTED] in [REDACTED] 2021.
5. The Department was unaware of Petitioner's UCB income, so the Department continued to issue FAP benefits to Petitioner without considering Petitioner's UCB income.
6. From March 1, 2021, through June 30, 2021, Petitioner received a monthly COVID-19 supplement of \$367.00 resulting in Petitioner receiving a total monthly FAP benefit of \$584.00 per month (\$367.00 + \$217.00).
7. From July 1, 2021, through July 31, 2021, Petitioner received a COVID-19 supplement of \$399.00 resulting in Petitioner receiving a total FAP benefit of \$616.00 (\$399.00 + \$217.00).
8. From August 1, 2021, through August 31, 2021, Petitioner received a COVID-19 supplement of \$318.00 resulting in Petitioner receiving a total FAP benefits of \$535.00 (\$318.00 + \$217.00).
9. On or around September 29, 2021, the Department became aware of Petitioner's UCB income that was not being considered when issuing Petitioner FAP benefits from March 1, 2021, through August 31, 2021.
10. The Department recalculated Petitioner's FAP benefit amount from March 1, 2021, through August 31, 2021, by budgeting Petitioner's UCB income. The Department determined that Petitioner was eligible for \$0.00 in FAP benefits from March 1, 2021, through August 31, 2021.
11. The Department determined that Petitioner was overpaid \$3,504.00 in FAP benefits from March 1, 2021, through August 31, 2021, due to client error.
12. On May 31, 2024, the Department notified Petitioner of the overpayment.
13. On June 13, 2024, Petitioner requested a hearing to dispute the overpayment.

### **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 FAP 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 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, the Department determined that it overpaid FAP benefits to Petitioner because it did not properly budget Petitioner's UCB income. When a client receives more benefits than the client was entitled to receive, the Department must attempt to recoup the overissuance. BAM 700 (October 1, 2018), p. 1. The overissuance amount is the amount of benefits in excess of the amount the client was eligible to receive. *Id.* at p. 2. Based on the evidence presented, the Department overpaid FAP benefits to Petitioner from March 1, 2021, through August 31, 2021. However, the Department failed to present evidence to show that Petitioner was overpaid \$3,504.00 in FAP benefits from March 1, 2021, through August 31, 2021.

From March 1, 2021, through June 30, 2021, Petitioner received a monthly COVID-19 supplement of \$367.00 resulting in Petitioner receiving a total monthly FAP benefit of \$584.00 per month (\$367.00 + \$217.00). Therefore, the Department properly determined that Petitioner was overpaid \$584.00 per month from March 1, 2021, through June 30, 2021.

However, from July 1, 2021, through July 31, 2021, Petitioner received a COVID-19 supplement of \$399.00 resulting in Petitioner receiving a total FAP benefit of \$616.00 (\$399.00 + \$217.00). Further, from August 1, 2021, through August 31, 2021, Petitioner received a COVID-19 supplement of \$318.00 resulting in Petitioner receiving a total FAP benefit of \$535.00 (\$318.00 + \$217.00).

In this case, the Department alleged that Petitioner was overissued \$584.00 per month in FAP benefits from March 1, 2021, through June 30, 2021. However, the Department failed to establish that Petitioner was overissued \$584.00 per month from July 1, 2021, through August 31, 2021, as the evidence showed that Petitioner received \$616.00 in FAP benefits from July 1, 2021, through July 31, 2021, and only \$535.00 in FAP benefits from August 1, 2021, through August 31, 2021.

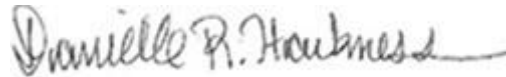
**DECISION AND ORDER**

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 properly determined that Petitioner received an overpayment of FAP benefits from March 1, 2021, through June 30, 2021, but the Department did not properly determine the amount of the overpayment.

IT IS ORDERED the Department's decision is **AFFIRMED IN PART** with respect to the Department's determination that Petitioner received an overpayment of FAP benefits from March 1, 2021, through June 30, 2021, and **REVERSED IN PART** with respect to the overpayment amount of \$616.00 in FAP benefits from July 1, 2021, through July 31, 2021, and \$535.00 in FAP benefits from August 1, 2021, through August 31, 2021.

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. Redetermine the amount of the overissuance beginning July 1, 2021.



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**Danielle R. Harkness**  
Administrative Law Judge

DH/pt

**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**

Ashley Warner  
Missaukee/Wexford County DHHS  
10641 W. Watergate Rd.  
Cadillac, MI 49601

**MDHHS-GR8North-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**

BSC1  
M Holden  
B Cabanaw  
N Denson-Sogbaka  
MOAHR

**Via-First Class Mail:**

**Petitioner**

[REDACTED]  
MI [REDACTED]