



GRETCHEN WHITMER  
GOVERNOR

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

MARLON BROWN  
DIRECTOR

██████████  
██████████  
██████████

Date Mailed: October 11, 2024  
MOAHR Docket No.: 24-009925  
Agency No.: ██████████  
Petitioner: ██████ ██████

**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 October 1, 2024, from Lansing, Michigan. Participants on behalf of Petitioner included ██████ ██████ Petitioner, and ██████ ██████ husband. The Department of Health and Human Services (Department) was represented by Lisa Carlson, Overpayment Establishment Analyst.

During the hearing proceeding, the Department's Haring Summary packet was admitted as Exhibit A, pp. 1-56.

**ISSUE**

Did the Department properly determine that Petitioner received Food Assistance Program (FAP) benefits that she 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 January 1, 2020 to June 30, 2020 Petitioner received FAP benefits totaling \$██████████ (Exhibit A, pp. 7 and 15)
2. On October ██████ 2019, Petitioner applied for FAP for her household of four, including ██████ (year of birth 2000). It was reported that ██████ was enrolled in college/vocational school. (Exhibit A, pp. 34-40)

3. ■ was enrolled in ■ College as of August ■ 2019. (Exhibit A, pp. 7 and 30-31)
4. On November ■ 2019, a Notice of Case Action was issued to Petitioner approving FAP for a household size of four, including ■ The Notice reminded Respondent of the responsibility to report changes within 10 days, including changes with income or college school status. (Exhibit A, pp. 7 and 41-49)
5. On May ■ 2020, it was reported that household member ■ started receiving unemployment benefits. (Exhibit A, p. 7)
6. The Department determined that Petitioner was overissued FAP benefits from January 1, 2020 to June 30, 2020 in the amount of \$■ due to agency error of failing to act when it was reported that AY was a student. (Exhibit A, pp. 7, 14, and 16-29)
7. On July ■ 2024, the Department sent Petitioner a Notice of Overissuance instructing her that a \$■ overissuance of FAP benefits occurred from January 1, 2020 to June 30, 2020 due to agency error and would be recouped. (Exhibit A, pp. 8-13)
8. On August 26, 2024, the Department received Petitioner's request for a hearing protesting the recoupment of FAP benefits. (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.

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, October 1, 2019, p. 9. Clients must also report changes in circumstance that potentially affect eligibility or benefit amount within 10 days. BAM 105, pp. 11-13.

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. BAM 220, April 1, 2019,

p. 7. A pending 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. 12.

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 January 1, 2020 to June 30, 2020 in the amount of \$[REDACTED] due to agency error of failing to act when it was reported that AY was a student. (Exhibit A, pp. 7, 14, and 16-29). Accordingly, on July 2, 2024, the Department sent Petitioner a Notice of Overissuance instructing her that a \$[REDACTED] overissuance of FAP benefits occurred from January 1, 2020 to June 30, 2020 due to agency error and would be recouped. (Exhibit A, pp. 8-13).

Petitioner noted that she reported [REDACTED] was enrolled in college like she was supposed to. This occurred four years ago, and it seems unreasonable for the Department to collect the overissuance now. They did not do anything wrong and were unaware that the Department had made a mistake. (Petitioner Testimony).

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. This Administrative Law Judge has no authority to change or make exception to Department policy.

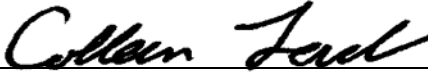
Overall, the evidence supports the Department's determination that Petitioner received an overpayment of FAP benefits from January 1, 2020 to June 30, 2020 in the amount of \$[REDACTED] due to agency error. Therefore, the Department properly sought recoupment of a \$[REDACTED] overissuance of FAP benefits from Petitioner.

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 \$[REDACTED] overpayment of FAP benefits from January 1, 2020 to June 30, 2020 due to agency error, which must be recouped.

**DECISION AND ORDER**

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

CL/dm



---

**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**  
Kim Cates  
Bay County DHHS  
**MDHHS-Bay-  
Hearings@michigan.gov**

**DHHS Department Rep.**  
Overpayment Establishment Section  
(OES)  
**MDHHS-RECOUPMENT-  
HEARINGS@Michigan.gov**

**HoldenM**

**DensonSogbakaN**

**BSC2HearingDecisions**

**MOAHR**

**Via-First Class Mail :**

**Petitioner**

██████████  
██████████████████  
██████████████████