



GRETCHEN WHITMER
GOVERNOR

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

MARLON BROWN
DIRECTOR

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Date Mailed: October 18, 2024
MOAHR Docket No.: 24-010074
Agency No.: ██████████
Petitioner: ██████████ ██████████

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

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 8, 2024, from Lansing, Michigan. The Petitioner was represented by his guardian ██████████ ██████████. The Department of Health and Human Services (Department) was represented by Eugene Brown Overpayment Establishment Analyst. Department Exhibit 1, pp. 1- 94 was received and admitted.

ISSUE

Did the Department properly determine that Petitioner received an overissuance of Food Assistance Program (FAP) benefits due to client error 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. Petitioner's mother ██████████ ██████████ was a recipient of FAP benefits and Petitioner was in her FAP group.
2. The Department provided a FAP redetermination signed by ██████████ ██████████ and dated September ██████████ 2020. Petitioner did not sign this form. (Ex. 1, pp. 77-81)
3. The Department alleges that ██████████ ██████████ was receiving unemployment compensation and pandemic unemployment compensation that was not reported and not budgeted.

4. On August [REDACTED] 2024, Notice of Overissuance was sent to Petitioner alleging that he received an overissuance of FAP benefits from June 1, 2020, through July 31, 2020, in the amount of \$[REDACTED] due to client error. (Ex. 1, pp. 8-9) The Notice of Overissuance incorrectly states that Petitioner failed to report his mother's unemployment compensation when he had no duty to report that income and there was no evidence presented that he was aware that she was receiving unemployment compensation.
5. On August [REDACTED] 2024, Petitioner's guardian requested hearing disputing the finding of overissuance.
6. [REDACTED] is deceased.
7. Petitioner was receiving SSI during the alleged overissuance time period.
8. The hearing summary incorrectly states that "client failed to report mother's receipt of Unemployment and Pandemic Unemployment income." Petitioner had no duty to report his mother's income. (Ex. 1, p.1)

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.

Client Error

A type of overpayment (OP) or underissuance resulting from inaccurate reporting on the part of the household. The establishment of a client error overpayment claim does not rule out the possibility of a future finding of intentional program violation. BAM 715

OVERPAYMENT AMOUNT

FIP, SDA, RCA, CDC and FAP

The amount of benefits issued to the client, household, or provider in excess of what the recipient(s) was/were eligible to receive. BAM 720

PAYMENT RESPONSIBILITY

All Programs

Repayment of an overissuance is the responsibility of: • Anyone who was an eligible, disqualified, or other adult in the program group at the time the overissuance occurred. • A FAP-authorized representative if they had any part in creating the FAP overissuance. Bridges will collect from all adults who were a member of the case. Administrative recoupment may be deducted on more than one case for a single overissuance.

FIP and FAP

If the overpaid group did not contain an eligible or disqualified adult during the overissuance period, do not initiate recoupment, unless recoupment is established by court order or a repayment agreement is obtained in lieu of prosecution. An adult for recoupment purposes is an individual 18 years old or older. BAM 725

In this case, the Department did not provide an assistance application or redetermination paperwork that Petitioner signed during the alleged overissuance time period. Petitioner was receiving SSI during the alleged overissuance time period. Petitioner had no duty to report changes in household income on his mother's FAP case and no evidence was presented to establish that Petitioner was aware that [REDACTED] [REDACTED] was receiving unemployment compensation during the alleged overissuance time period.

The Department has the ability to attempt to collect the alleged overissuance from Janice Hunt's estate in probate court.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it attempted to collect an alleged overissuance from Petitioner when he was not the FAP recipient and was only a household member. Petitioner's receipt of SSI and the guardianship his sister has over him also brings into question whether Petitioner was legally competent at the time of the alleged overissuance.

DECISION AND ORDER

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

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. Delete the FAP overissuance as it pertains to Petitioner.
2. Cease attempting to collect the FAP overissuance from Petitioner.



AM/dm

Aaron McClintic
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
Hannah Czechowski
Genesee County DHHS Clio Rd Dist.
**MDHHS-Genesee-Clio-
Hearings@michigan.gov**

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

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MOAHR

Via-First Class Mail :

Petitioner

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