



GRETCHEN WHITMER
GOVERNOR

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

MARLON BROWN
DIRECTOR

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

Date Mailed: December 18, 2024
MOAHR Docket No.: 24-012656
Agency No.: [REDACTED]
Petitioner: [REDACTED]

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 December 10, 2024, from Lansing, Michigan. The Petitioner was represented by himself. The Department of Health and Human Services (Department) was represented by Jennifer Richard. Department Exhibit 1, pp. 1-22 was received and admitted.

ISSUE

Did the Department issue Petitioner replacement Food Assistance Program (FAP) replacement due to fraud in the correct amount?

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 September 18, 2024, Petitioner submitted a food replacement affidavit attesting that \$3,751 of FAP benefit was taken from his card fraudulently.
2. On October 29, 2024, a Benefit Notice was sent to Petitioner informing him that he was approved for food replacement in the amount of \$582. (Ex. 1, pp. 18-21)
3. On November 6, 2024, Petitioner requested hearing disputing the amount of the food replacement.

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.

FAP fraud benefit replacement can only be approved up to two months' worth of benefits issued prior to the fraud or the amount that was fraudulently removed whichever is lower. ESA Memo 2023-53 (Ex. 1, pp. 13-17)

In this case, Petitioner submitted his Food Replacement Affidavit on September 18, 2024. Policy dictates that recipients are only entitled to two months' worth of benefits issued prior to the fraud which in this case was \$291 each month for two months, totaling \$582. (Ex. 1, p.11) ESA Memo 2023-53 The amount issued by the Department for replacement was \$582 and therefore, was proper and correct and consistent with Department policy.

At hearing, Petitioner asked for special consideration due to his health problems and nutritional needs, the undersigned Administrative Law Judge does not have the authority to disregard or overrule Department policy based on a recipient's individual circumstances.

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 Petitioner's FAP replacement amount.

DECISION AND ORDER

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

AM/ml



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
Kimberly Kornoelje
Kent County DHHS
121 Martin Luther King Jr St SE
Ste 200
Grand Rapids, MI 49507
MDHHS-Kent-Hearings@michigan.gov

Interested Parties

BSC3
M Holden
B Cabanaw
N Denson-Sogbaka
MOAHR

Via First Class Mail:

Petitioner

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