



Date Mailed: March 21, 2025

Docket No.: 24-038264

Case No.: [REDACTED]

Petitioner: [REDACTED]

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এটি একটি গুরুত্বপূর্ণ আইনি ডকুমেন্ট। দয়া করে কেউ দস্তাবেজ অনুবাদ করুন।

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Ky është një dokument ligjor i rëndësishëm. Ju lutem, kini dikë ta përktheni dokumentin.

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 hearing was held by telephone on March 17, 2025. Petitioner appeared and represented himself. The Department of Health and Human Services (Department) was represented by Annette Fullerton, Overpayment Establishment Analyst.

ISSUE

Did the Department properly determine that Petitioner received an overpayment (OP) of Food Assistance Program (FAP) benefits due to client error (CE) 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. In 2019 Petitioner and [REDACTED] ([REDACTED]) were living together in a domestic relationship with their minor child, [REDACTED] (Child).
2. On February [REDACTED] 2019, Petitioner was hired by [REDACTED] (Employer) and received his first paycheck on February [REDACTED] 2019. (Exhibit A, pp. 40 – 44).

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3. On March █ 2019, the Department received an application for State Emergency Relief from █ that requested assistance for relocation expenses in the amount of \$█ KG listed Petitioner as a member of the household but requested assistance for herself and Child only and reported that she and Child were “in great need of housing asap...so that [she and Child could] find a more stable living situation”. █ reported that no one in the household was employed and that the total monthly income was \$█ (Exhibit A, pp. 20 – 25).
 4. On March █ 2019, the Department received a completed FAP redetermination application from KG.
 5. On or about September █ 2019, Petitioner and █ stopped living together.
 6. In October 2019, the Department received an application for Child Development and Care (CDC) assistance from Petitioner. During the application process and interview, Petitioner reported his employment with Employer and that █ was incarcerated.
 7. On October █ 2019, the Department made an OP referral in █ case based on the unreported earnings of Petitioner. (Exhibit A, p. 45).
 8. On June █ 2020, █ passed away.
 9. On February █ 2023, the Department obtained a Work Number report from Equifax regarding Petitioner’s employment and income history with Employer. (Exhibit A, pp. 39 – 44).
 10. From April 1, 2019 through September 30, 2019, the Department issued █ \$█ in FAP benefits. (Exhibit A, p. 19).
 11. On February █ 2024, an Order of Discharge was entered in Case Number 23-48768 filed by Petitioner in the United States Bankruptcy Court for the Eastern District of Michigan. (Exhibit 1, pp. 1 – 2).
 12. On December █ 2024, the Department sent Petitioner a Notice of Overissuance [sic] that notified Petitioner that for the period of April 1, 2029 to September 30, 2019 (OP period) that he received an OP of FAP benefits in the amount of \$█ due to CE for his failure to report his employment to the Department. (Exhibit A, pp. 12 – 17).
 13. On December █ 2024, the Department received a request for hearing from Petitioner that a) disputed the Department’s determination that Petitioner had received an OP of FAP benefits, and b) notified the Department that Petitioner filed a Chapter 7 bankruptcy. (Exhibit A, p. 7).

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.

Petitioner requested a hearing to dispute the Department's determination that Petitioner had received an OP of FAP benefits and notify the Department that he had filed a Chapter 7 bankruptcy. The Department determined Petitioner received an OP of FAP benefits in the amount of \$[REDACTED] during the OP period due to his failure to report his earnings to the Department, which the Department found to be CE.

At all times relevant to the OP period at issue, Department policy has required that FAP groups include parents and their children under 22 years of age who live together, and all household members who purchase and prepare food together, unless an individual is specifically excluded. BEM 212 (July 2017), pp. 1 – 10. FAP benefit eligibility is based in large part on the FAP group's countable income and clients must provide truthful and complete information to the Department and report income changes to the Department within 10 days of receiving the first payment reflecting the change. BEM 500 (July 2017), pp. 1 – 5; BAM 105 (January 2019), pp. 9, 11 – 13; see also 7 CFR 273.12(a)(3).

As applicable to this case, when a client group receives more benefits than it is entitled to receive, the Department must attempt to recoup the OP as a recipient claim. BAM 700 (October 2018, June 2024), p. 1; 7 CFR 273.18(a)(2). A FAP OP can be caused by CE, agency error (AE), or an intentional program violation (IPV). BAM 700, p. 2. A CE occurs when the OP was caused by inaccurate reporting by the client. BAM 700 (October 2018), p. 7; BAM 700 (June 2024), p. 2; BAM 715 (October 2017, June 2024), p. 1. An AE is caused by incorrect actions by the Department and when the type of error cannot be identified. BAM 700 (October 2018), pp. 5 – 6; BAM 705 (June 2024), p. 1; 7 CFR 273.18(b)(3).

The amount of a FAP OP is the benefit amount the client actually received; minus the amount the client was eligible to receive. BAM 700, p. 1. When an OP in excess of \$250.00 is discovered, the Department is required to establish a claim for repayment for the OP. BAM 700 (October 2018), p. 10; BAM 700 (June 2024), p. 5; 7 CFR 273.18(d)(3). Federal law and Department policy both require that all adult members of a FAP group that received an OP of FAP benefits are responsible for the FAP OP. 7 CFR 273.18(a)(4).

24-038264

In this case, although it did not introduce a FAP application or Notice of Case Action (NOCA), the Department testified that ■■■ was approved for FAP benefits for a three-person FAP group that included Petitioner and Child and that Petitioner failed to report his earned income to the Department as required by policy. The Department also testified that ■■■ completed redetermination application for FAP on May ■■■ 2019 that did not disclose Petitioner's income and that the application included a wet signature of an authorized representative (AR) that appeared to the Department to be Petitioner's signature.

Petitioner testified that ■■■ passed away in June 2020 and that he was not aware that ■■■ had applied for or received FAP benefits. Petitioner also testified that he had never applied for any assistance from the Department until he applied for CDC benefits in October 2019, and there was no dispute that when Petitioner applied, he reported his income and that KG was incarcerated at that time. It was because of Petitioner's CDC application that the Department learned of his employment and income.

Although there was no dispute that Petitioner was employed throughout the OP period, the Department did not introduce any applications, interview guides, or NOCAs regarding FAP to establish what ■■■ reported or did not report. And, although the Department did introduce a SER application submitted by ■■■ on March ■■■ 2019 that did not disclose Petitioner's income, the application requested relocation assistance for ■■■ and Child only and there was no evidence to establish whether ■■■ provided additional information regarding Petitioner's income to the Department at any time relative to that application.

Because there was no documentary evidence to support the Department's allegations regarding Petitioner's failure to report, and the testimony of neither the Department nor the Petitioner was more credible than the other, the Department did not establish that Petitioner inaccurately reported information to the Department that resulted in CE. However, regardless of the type of OP error, as outlined previously, the Department is required to establish a claim for repayment of an OP when a FAP group receives more benefits than it was eligible to receive.

In support of its calculations of an OP, the Department presented OP budgets for each month of the OP period. (Exhibit A, pp. 26 – 37). The Department testified that it calculated the OP total by budgeting Petitioner's unreported earned income for each month of the OP period but made no other changes to Petitioner's FAP budgets. BEM 505 (October 2017), pp. 13 – 14. The evidence established that when the Department properly budgeted Petitioner's earned income, the FAP group had income in excess of the gross or net income limit for FAP for each month of the OP period. Therefore, the group was not eligible for any FAP benefits from April 1, 2019 to September 30, 2019 and the Department is entitled to recoup an OP of the FAP benefits issued to the group during those benefit months.

When a client receives an OP of benefits and the type of error cannot be identified, such as in this case, the OP is designated as AE. BAM 700 (October 2018), pp. 5 – 6; BAM 705 (June 2024). Therefore, although the Department established that KG's FAP group,

24-038264

which included Petitioner as a mandatory member, received an OP of FAP benefits in the amount of \$[REDACTED] the Department failed to establish that the OP of FAP benefits was due to CE rather than AE.

It is further noted that the evidence established that Petitioner filed a Chapter 7 bankruptcy case in the United States Bankruptcy Court for the Eastern District of Michigan in 2023 and an Order of Discharge was entered by the Court on February [REDACTED] 2024 in that Court's Case Number 23-48768. (Exhibit 1, p. 1). Therefore, in light of the Order of Discharge, the undersigned makes no determination regarding the dischargeability or collectability of the FAP OP and the parties are directed to take whatever action they deem appropriate.

Therefore, although the Department did not establish that Petitioner received an OP of FAP benefits due to CE, it did establish that Petitioner received an OP in the amount of \$[REDACTED] due to AE and the Department is entitled to recoup the OP from Petitioner pursuant to 7 CFR 273.18(a)(4), subject to any restrictions imposed upon the Department by entry of an Order of Discharge entered for Petitioner in the United States Bankruptcy Court for the Eastern District of Michigan on February 2, 2024.

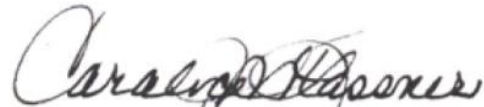
DECISION AND ORDER

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it determined Petitioner received an OP of FAP benefits due to CE.

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. Reprocess the FAP OP in the amount of \$[REDACTED] for the period of April 1, 2019 to September 30, 2019 as an agency error in accordance with Department policy, subject to any restrictions imposed upon the Department by entry of an Order of Discharge entered for Petitioner in the United States Bankruptcy Court for the Eastern District of Michigan on February [REDACTED] 2024; and
2. Notify Petitioner of its action in writing.



CARALYCE M. LASSNER
ADMINISTRATIVE LAW JUDGE

APPEAL RIGHTS: Petitioner may appeal this Hearing Decision to the circuit court. Rules for appeals to the circuit court can be found in the Michigan Court Rules (MCR), including MCR 7.101 to MCR 7.123, available at the Michigan Courts website at courts.michigan.gov. The Michigan Office of Administrative Hearings and Rules (MOAHR) cannot provide legal advice, but assistance may be available through the State Bar of Michigan at <https://lrs.michbar.org> or Michigan Legal Help at <https://michiganlegalhelp.org>. A copy of the circuit court appeal should be sent to MOAHR. A circuit court appeal may result in a reversal of the Hearing Decision.

Either party who disagrees with this Hearing Decision may also send a written request for a rehearing and/or reconsideration to MOAHR within 30 days of the mailing date of this Hearing Decision. The request should include Petitioner's name, the docket number from page 1 of this Hearing Decision, an explanation of the specific reasons for the request, and any documents supporting the request. The request should be sent to MOAHR

- by email to MOAHR-BSD-Support@michigan.gov, **OR**
- by fax at (517) 763-0155, **OR**
- by mail addressed to
Michigan Office of Administrative Hearings and Rules
Rehearing/Reconsideration Request
P.O. Box 30639
Lansing Michigan 48909-8139

Documents sent via email are not secure and can be faxed or mailed to avoid any potential risks. Requests MOAHR receives more than 30 days from the mailing date of this Hearing Decision may be considered untimely and dismissed.

Via Electronic Mail:

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Via First Class Mail:

Petitioner

