



Date Mailed: April 14, 2025

Docket No.: 25-001651-RC

Case No.:

Petitioner: [REDACTED]

«RECIP_FULL_NAME»

«RECIP_ADD0»

«RECIP_ADD1»

«RECIP_ADD2»

«RECIP_CITY», «RECIP_SPCODE»

«RECIP_POSTAL»

This is an important legal document. Please have someone translate the document.

هذه وثيقة قانونية مهمة. يرجى أن يكون هناك شخص ما يترجم المستند.

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

Este es un documento legal importante. Por favor, que alguien traduzca el documento.

这是一份重要的法律文件。请让别人翻译文件。

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

SUPERVISING ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

ORDER GRANTING REQUEST FOR RECONSIDERATION
AND
DECISION ON RECONSIDERATION

On March 6, 2025, the Michigan Office of Administrative Hearing and Rules (MOAHR) received a request for rehearing and/or reconsideration from Respondent Michigan Department of Health and Human Services (MDHHS). The request concerned the Hearing Decision issued by Administrative Law Judge (ALJ) Jeff Kemm on February 6, 2025 under MOAHR docket no. 25-001651. Because the request was received by MOAHR within 30 days of the date the decision was issued, it is timely. MCL 24.287(3); MCL 400.37; Mich Admin Code, R 792.11015.

A rehearing is a full hearing which may be granted if the original hearing record is inadequate for purposes of judicial review or there is newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision. Bridges Administrative Manual (BAM) 600 (June 2024), p. 44. A reconsideration is a paper review of the facts, law or legal arguments and any newly discovered evidence that existed at the time of the hearing and may be granted when the original hearing record is adequate for purposes of judicial review and a rehearing is not necessary, but one of the parties is able to demonstrate that the ALJ misapplied manual policy or law in the hearing decision, which led to the wrong decision; issued a Hearing Decision with typographical errors, mathematical errors, or other obvious errors that affect the substantial rights of the petitioner; or failed to address other relevant issues in the hearing decision. BAM 600, p. 45.

Here, Petitioner [REDACTED] had requested a hearing to dispute MDHHS's finding that she was overpaid Food Assistance Program (FAP) benefits in June 2020, July 2020, and March 2021 totaling \$1,554.00 that she was required to repay MDHHS. Following the hearing on the matter, the ALJ issued the Hearing Decision, finding that, because MDHHS failed to consider [REDACTED] in unemployment benefits Petitioner received in September 2020 that would have resulted in Petitioner being ineligible for any FAP that month, MDHHS had miscalculated the FAP overpayment and ordered MDHHS to include September 2020 in the overpayment period and the \$509 in FAP benefits Petitioner received in September 2020 in the overpayment amount, increasing the overpayment Petitioner had to repay MDHHS from \$1,554 to \$2,063.

In its request, MDHHS alleges that the ALJ improperly considered income that Petitioner received September 2020 that was not countable and, as a result, erred when he increased the overpayment amount. MDHHS included with its request Economic Stability Administration (ESA) Memo 202-2 issued September 29, 2020, which provided that, under federal law, additional unemployment benefits of [REDACTED] per week paid to qualified individuals were not countable income or assets for FAP purposes. Although MDHHS contends that the basis for its request is that there was newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision, its argument also indicates that, by failing to apply federal standards that excluded consideration of Petitioner's September 2020 income in determining FAP eligibility, the ALJ misapplied law and policy in the Hearing Decision, which led to the wrong decision.

Because MDHHS alleges a misapplication of law and has identified the legal grounds for its position, a basis for reconsideration is established. Therefore, the request for reconsideration is **GRANTED**.

The Decision and Order of Reconsideration follows a full review of the case file, all exhibits, the hearing record and applicable statutory and policy provisions. Because MDHHS's request concerns only whether Petitioner received a FAP overpayment in September 2025, a review of this case is limited to that issue.

DECISION ON RECONSIDERATION

ISSUE

Did MDHHS properly determine that Petitioner was not overpaid \$509 in FAP benefits in September 2020 and exclude September 2020 from the FAP overpayment?

FINDINGS OF FACT

The undersigned, based upon the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On February 4, 2025, a hearing was held under MOAHR docket no. 25-001651 to address Petitioner's dispute with MDHHS's finding that she was overpaid \$1,554 in FAP benefits in June 2020, July 2020 and March 2021 and was required to repay this amount to MDHHS.
2. On February 6, 2025, the ALJ issued a Hearing Decision in the matter.
3. The Findings of Fact numbers 1 through 14 in the Hearing Decision are incorporated by reference. Additional Findings of Fact are made as follows:
 - a. MDHHS excluded from its calculation of Petitioner's unemployment benefits received on September 12 and 24, 2020, [REDACTED] from each of the [REDACTED] unemployment payments issued to her for the weeks of August 1, 2020; August 8, 2020; August 15, 2020; August 22, 2020; August 29, 2020 and September 5, 2020. (Exhibit A, p. 40)
4. On March 6, 2025, MOAHR received MDHHS's timely request for reconsideration, which is granted herein.

CONCLUSIONS OF LAW

MDHHS policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), Reference Tables Manual (RFT), and 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, *et seq.*, and is implemented, in relevant part, by the federal regulations contained in 7 CFR 273. MDHHS (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10 of the Social Welfare Act, MCL 400.1 *et seq.*, and Mich Admin Code, R 400.3001 to R 400.3011.

In its request for rehearing and/or reconsideration, MDHHS argues that the ALJ erred when he concluded that MDHHS had improperly disregarded [REDACTED] of unemployment benefits Petitioner received in September 2020 in calculating the FAP overpayment to Petitioner. The FAP overpayment budget for September 2020, which MDHHS prepared to show Petitioner's FAP eligibility if her unemployment benefits had been considered in determining her household's FAP eligibility, showed that MDHHS budgeted [REDACTED] in unemployment benefits and [REDACTED] in child support income that month. (Exhibit A, pp. 26-27). The payment history showing the unemployment benefits Petitioner was paid by the Unemployment Insurance Agency (UIA) showed that in September 2020 Petitioner

received [REDACTED] in unemployment benefits. Although the ALJ concluded that MDHHS should have considered the full [REDACTED] the consolidated inquiry had a red slash for [REDACTED] of payments made to Petitioner in September for the weeks of August 1, 2020, August 8, 2020; August 15, 2020; August 22, 2020; August 29, 2020; and September 5, 2020, with a notation [REDACTED] is excluded.” (Exhibit A, p. 40)

In its request for reconsideration, MDHHS explained that [REDACTED] per week in unemployment benefits paid to qualified individuals by UIA under the Assistance Program for Lost Wages authorized by the federal government on August 8, 2020 under the Stafford Act was excluded as both income and assets for FAP determinations. In support of excluding these unemployment benefits from countable income for FAP purposes, MDHHS provided ESA 2020-42, which advised MDHHS local offices of this exclusion. A review of the law supports MDHHS’s position that additional unemployment benefits were issued pursuant to the Lost Wages Assistance Program established under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 USC 5121 *et. seq*, and that these additional unemployment benefits were to be excluded as income in determining eligibility for FAP. See 42 USC 5174(e)(2) and 42 USC 5155(d).

Because the [REDACTED] in extra unemployment benefits paid to Petitioner in September 2020 for each of the 6 weeks between August 1, 2020 and September 5, 2020, were paid under the Lost Wages Assistance Program and are not countable for FAP purposes, the ALJ erred when he concluded that MDHHS had improperly excluded [REDACTED] from its calculation of Petitioner’s September 2020 unemployment income. The FAP overpayment budget for September 2020 showed that, based on the unemployment benefits that were countable, Petitioner was eligible for some FAP benefits. Because the emergency allotments (EAs) issued to FAP recipients in September 2020 bring FAP recipients to the maximum FAP benefits for their group size, Petitioner would be eligible for the full \$509 in FAP benefits she was issued that month. See ESA 2020-15. Therefore, Petitioner did not receive a FAP overissuance for the month of September 2020, and the ALJ erred in ordering MDHHS to include the \$509 in FAP benefits Petitioner received in September 2020 in the overpayment amount and to increase the FAP overpayment to Petitioner from \$1,554 to \$2,063.

DECISION AND ORDER

Based on the above Findings of Fact and Conclusions of Law, the undersigned finds that that MDHHS properly determined Petitioner was eligible for \$509 in FAP benefits in September 2020.

Accordingly, the February 6, 2025 Hearing Decision is **REVERSED**.

MDHHS IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION ON RECONSIDERATION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Remove \$509 from Petitioner's outstanding balance owed to MDHHS for the FAP overpayment between June 2020 and March 2021; and
2. Notify Petitioner in writing of the change.



**ALICE C. ELKIN
SUPERVISING ADMINISTRATIVE
LAW JUDGE**

Via Electronic Mail:

Respondent

GENESEE COUNTY DHHS CLIO RD
DIST

4809 CLIO RD

FLINT, MI 48502

**MDHHS-GENESEE-CLIO-
HEARINGS@MICHIGAN.GOV**

Agency Representative

LISA CARLSON

OVERPAYMENT ESTABLISHMENT
SECTION (OES)

235 S GRAND AVE STE 811

LANSING, MI 48933

**MDHHS-RECOUPMENT-
HEARINGS@MICHIGAN.GOV**

Interested Parties

BSC2

B CABANAW

M HOLDEN

MOAHR

Via First Class Mail:

Petitioner

[REDACTED]

[REDACTED]

[REDACTED] MI [REDACTED]