



Date Mailed: February 6, 2025

Docket No.: 25-001651

Case No.: 100808693

Petitioner: [REDACTED]

[REDACTED]  
MI

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

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

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### **HEARING DECISION**

On January 6, 2025, Petitioner [REDACTED] requested a hearing to dispute a Food Assistance Program (FAP) overpayment determination. As a result, a hearing was scheduled to be held on February 4, 2025. Public assistance hearings are held 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; 45 CFR 205.10; and Mich Admin Code, R 792.11002.

The parties appeared for the scheduled hearing. Petitioner appeared and represented herself. Respondent Michigan Department of Health and Human Services (Department) had Overpayment Establishment Analyst Lisa Carlson appear as its representative.

Sworn testimony was provided by both parties, and one exhibit was admitted into evidence. A 67-page packet of documents provided by the Department was admitted collectively as Exhibit A.

### **ISSUE**

Did the Department properly determine that Petitioner owes the Department a debt of \$1,554.00 for Food Assistant Program (FAP) benefits that were overpaid to Petitioner for the months of June 2020, July 2020, and March 2021?

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## **FINDINGS OF FACT**

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The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On April 3, 2020, Petitioner applied for FAP benefits, and Petitioner reported that her household did not have any income.
2. The Department determined that Petitioner was eligible for FAP benefits based on the following:
  - a. Group size of three;
  - b. [REDACTED] in unearned income;
  - c. \$400 in housing costs;
  - d. \$161 for a standard deduction; and
  - e. \$518 for a heat/utility standard.
3. On April 9, 2020, the Department mailed a notice of case action to Petitioner to notify her that she was approved for FAP benefits. The only household income that the Department considered when it determined Petitioner's eligibility was income from child support that Petitioner received. The notice instructed Petitioner to notify the Department of any change in household income within 10 days of the date of the change.
4. On April 29, 2020, Petitioner began receiving income from unemployment compensation benefits.
5. Petitioner did not notify the Department that she began receiving income from unemployment compensation benefits.
6. Petitioner received the following unemployment compensation benefits:
  - a. [REDACTED] on April 29, 2020;
  - b. [REDACTED] on May 7, 2020;
  - c. [REDACTED] on May 19, 2020;
  - d. [REDACTED] on June 2, 2020;
  - e. [REDACTED] on June 16, 2020;
  - f. [REDACTED] on June 30, 2020;

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- g. [REDACTED] on July 14, 2020;
  - h. [REDACTED] on July 28, 2020;
  - i. [REDACTED] on September 12, 2020;
  - j. [REDACTED] on September 22, 2020;
  - k. [REDACTED] on September 24, 2020;
  - l. [REDACTED] on October 6, 2020;
  - m. [REDACTED] on October 20, 2020;
  - n. [REDACTED] on November 3, 2020;
  - o. [REDACTED] on November 17, 2020;
  - p. [REDACTED] on December 1, 2020;
  - q. [REDACTED] on December 8, 2020;
  - r. [REDACTED] on March 10, 2021;
  - s. [REDACTED] on March 11, 2021; and
  - t. [REDACTED] on March 24, 2021.

- 7. The Department issued FAP benefits to Petitioner without considering Petitioner's income from unemployment compensation benefits because the Department was unaware of it.
- 8. The Department issued the following FAP benefits to Petitioner:
  - a. \$509 for June 2020;
  - b. \$509 for July 2020;
  - c. \$509 for August 2020;
  - d. \$509 for September 2020;
  - e. \$535 for October 2020;
  - f. \$535 for November 2020;
  - g. \$535 for December 2020;
  - h. \$536 for January 2021;

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- i. \$536 for February 2021;
    - j. \$536 for March 2021; and
    - k. \$217 for April 2021.
  9. The Department reviewed Petitioner's case and determined that it did not properly determine Petitioner's FAP eligibility because it did not consider Petitioner's income from unemployment compensation benefits.
  10. The Department obtained data that showed Petitioner received the following child support payments:
    - a. [REDACTED] in April 2020;
    - b. [REDACTED] in May 2020;
    - c. [REDACTED] in June 2020;
    - d. [REDACTED] in July 2020;
    - e. [REDACTED] in September 2020;
    - f. [REDACTED] in October 2020;
    - g. [REDACTED] in November 2020;
    - h. [REDACTED] in December 2020;
    - i. [REDACTED] in January 2021;
    - j. [REDACTED] in February 2021;
    - k. [REDACTED] in March 2021; and
    - l. [REDACTED] in April 2021.
  11. The Department recalculated Petitioner's FAP benefit amount for the months of June 2020 through March 2021. The Department considered Petitioner's income from unemployment compensation benefits as well as the income she received from child support payments.
  12. The Department determined that Petitioner was not eligible for any FAP benefits for the months of June 2020, July 2020, and March 2021. The Department determined that the Department overpaid Petitioner \$1,554.00 in FAP benefits for those months.

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13. On December 10, 2024, the Department mailed a notice of overissuance to Petitioner to notify her that the Department overpaid her \$1,554.00 in FAP benefits for the months of June 2020, July 2020, and March 2021.
14. Petitioner requested a hearing to dispute the overpayment.

### **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 FAP 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 administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011.

In this case, the Department determined that it overpaid FAP benefits to Petitioner because it did not properly budget Petitioner's income from unemployment compensation benefits. When a client receives more benefits than the client was entitled to receive, the Department must attempt to recoup the overissuance. BAM 700 (June 1, 2024), p. 1. The overissuance amount is the amount of benefits in excess of the amount the client was eligible to receive. *Id.* at 2.

Since Petitioner received her first unemployment compensation payment on April 29, 2020, Petitioner was required to notify the Department about her income by May 11, 2020. The Department would have then been required to process her change in income within 10 days, and the Department's negative action would have been effective 12 days after the Department processed her change. Thus, if Petitioner would have notified the Department about her income as required, and if the Department would have processed her change as required, then the Department would have reduced or stopped Petitioner's FAP benefits no later than May 2, 2020. Accordingly, the first month that Petitioner's FAP benefits would have been affected would have been June 2020.

In June 2020, Petitioner received total unearned income of [REDACTED]. Based on Petitioner's income, Petitioner was ineligible for FAP benefits for the month. The Department overpaid Petitioner \$509.00 in FAP benefits because the Department issued Petitioner \$509.00 in FAP benefits when she was not eligible for FAP benefits.

In July 2020, Petitioner received total unearned income of [REDACTED]. Based on Petitioner's income, Petitioner was ineligible for FAP benefits for the month. The Department overpaid Petitioner \$509.00 in FAP benefits because the Department issued Petitioner \$509.00 in FAP benefits when she was not eligible for FAP benefits.

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In August 2020, Petitioner received total unearned income of [REDACTED]. Based on Petitioner's income, Petitioner was eligible for the maximum FAP benefit amount of \$509.00 for the month.

In September 2020, Petitioner received total unearned income of [REDACTED]. The Department erroneously disregarded [REDACTED] of Petitioner's income from unemployment compensation benefits. Based on Petitioner's income, Petitioner was ineligible for FAP benefits for the month. The Department overpaid Petitioner \$509.00 in FAP benefits because the Department issued Petitioner \$509.00 in FAP benefits when she was not eligible for FAP benefits.

In October 2020, Petitioner received total unearned income of [REDACTED]. Based on Petitioner's income, Petitioner was eligible for the maximum FAP benefit amount of \$535.00 for the month.

In November 2020, Petitioner received total unearned income of [REDACTED]. Based on Petitioner's income, Petitioner was eligible for the maximum FAP benefit amount of \$535.00 for the month.

In December 2020, Petitioner received total unearned income of [REDACTED]. Based on Petitioner's income, Petitioner was eligible for the maximum FAP benefit amount of \$535.00 for the month.

In January 2021, Petitioner received total unearned income of [REDACTED]. Based on Petitioner's income, Petitioner was eligible for the maximum FAP benefit amount of \$535.00 for the month (plus a supplement).

In February 2021, Petitioner received total unearned income of [REDACTED]. Based on Petitioner's income, Petitioner was eligible for the maximum FAP benefit amount of \$535.00 for the month (plus a supplement).

In March 2021, Petitioner received total unearned income of [REDACTED]. Based on Petitioner's income, Petitioner was ineligible for FAP benefits for the month. The Department overpaid Petitioner \$536.00 in FAP because the Department issued Petitioner \$536.00 in FAP benefits when she was not eligible for FAP benefits.

The Department properly determined that it overpaid Petitioner \$1,554.00 in FAP benefits for the months of June 2020, July 2020, and March 2021. However, the Department did not properly determine the total overpayment amount because the Department also overpaid Petitioner \$509.00 for September 2020. Thus, the Department should have determined that it overpaid Petitioner \$2,063.00 in FAP benefits for the months of June 2020, July 2020, September 2020, and March 2021.

The overpayment was caused by a client error because Petitioner did not report her income from unemployment compensation benefits to the Department. Petitioner

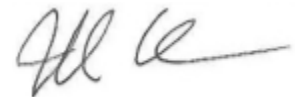
25-001651

asserted that she reported it to the Department, but Petitioner did not present sufficient evidence to establish that she did. In any event, the overpayment amount would be the same regardless of whether it was due to a client error or an agency error, and the Department would have been required to pursue Petitioner for repayment of the debt regardless of whether it was due to a client error or an agency error. The overpayment amount would have been the same either way because the overpayment involved unearned income, and unearned income is treated the same for a client error and an agency error. BAM 715 (June 1, 2024), p. 6. The Department would have been required to pursue Petitioner for repayment of the debt either way because the amount involved is greater than or equal to \$250.00, and the Department is required to pursue an agency error overpayment that is greater than or equal to \$250.00. BAM 700 at 5 and BAM 705 (June 1, 2024), p. 1.

### **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 acted in accordance with its policies and the applicable law when it determined that it overpaid Petitioner FAP benefits, but the Department did not act in accordance with its policies and the applicable law when it determined the overpayment amount.

**IT IS ORDERED** that the Department's decision is **AFFIRMED IN PART and REVERSED IN PART**. The Department's decision that it overpaid Petitioner FAP benefits is affirmed, but the Department's overpayment amount is reversed. The Department must redetermine the overpayment amount consistent with this decision. The Department must begin to implement this order within 10 days of the mailing date of this hearing decision.



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**JEFFREY KEMM**  
**ADMINISTRATIVE LAW JUDGE**

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**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



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**Via Electronic Mail:**

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