



Date Mailed: March 6, 2025

Docket No.: 25-004730

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; 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 via telephone conference on February 25, 2025. [REDACTED] Petitioner, appeared on her own behalf. The Michigan Department of Health and Human Services (MDHHS or Department) was represented by Alison Peck, Overpayment Establishment Analyst (OEA).

During the hearing proceeding, the Department's Hearing Summary packet was admitted as Exhibit A, pp. 1-139.

ISSUE

Did the Department properly determine that Petitioner received Food Assistance Program (FAP) benefits that she was not eligible for and must be recouped?

FINDINGS OF FACT

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

1. From June 1, 2020 to July 31, 2020, received FAP benefits subject to recoupment totaling \$710.00. (Exhibit A, pp. 24 and 133)
2. On [REDACTED] 2020, Petitioner applied for FAP for a household of two, herself and a living partner [REDACTED] (DS). It was reported that Petitioner and DS do not buy and make food separately. Petitioner reported employment with [REDACTED], but indicated she was off work due to illness. (Exhibit A, pp. 88-93)
3. On April 16, 2020, an interview was completed with Petitioner for the application for FAP for herself and DS. Petitioner reported she was not currently working due to illness and the only income they have is the child support Petitioner receives. (Exhibit A, pp. 94-95)
4. On April 16, 2020, a Notice of Case Action was issued to Petitioner approving FAP for a household size of two effective April 6, 2020. A budget summary was included showing no earned income and unearned income of \$284.00 was included in the FAP budget. The Notice indicated Petitioner was a simplified reporter and was only required to report when household gross monthly income exceeded \$1,832.00. A change in income over this amount was to be reported by the 10th day of the following month (Exhibit A, pp. 96-103)
5. On April 27, 2020, Petitioner submitted a Report Changes and indicated she returned to work [REDACTED], 2020, but her first check in [REDACTED] would only be for [REDACTED] hours instead of the normal [REDACTED] hours. Petitioner stated she would not get a full paycheck until [REDACTED], 2020. (Exhibit A, pp. 104-105)
6. On June 5, 2020, Petitioner submitted a paycheck stub and income was budgeted. (Exhibit A, p. 3)
7. On August 24, 2020, a Notice of Case Action was issued to Petitioner closing the FAP case effective September 1, 2020 based on a failure to return requested verification. (Exhibit A, pp. 106-110)
8. An Earnings Request documented Petitioner's earnings from [REDACTED] from pay dates [REDACTED] 2020 through [REDACTED], 2021. (Exhibit A, pp. 50-80)
9. The Department verified child support Petitioner received from April 3, 2020 through October 2, 2020. (Exhibit A, p. 86)
10. The Department verified Petitioner's rent as of April 15, 2020. (Exhibit A, p. 87)
11. The Department determined that Petitioner was overissued FAP benefits from June 1, 2020 to July 31, 2020 in the amount of \$710.00 due to agency error of failing to timely update income from [REDACTED]. (Exhibit A, pp. 3, 23, and 25-31; OEA Testimony)

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12. On January 14, 2025, the Department sent Petitioner a Notice of Overissuance instructing her that a \$710.00 overissuance of FAP benefits occurred from June 1, 2020 to July 31, 2020 due to Agency Error and would be recouped. (Exhibit A, pp. 17-22)
 13. From December 1, 2020 to March 31, 2021, received FAP benefits subject to recoupment totaling \$1,658.00. (Exhibit A, pp. 39-40 and 133)
 14. On [REDACTED], 2020, Petitioner applied for FAP for a household of two, herself and a living partner DS. It was reported that Petitioner and DS do not buy and make food separately. Petitioner reported employment with [REDACTED] [REDACTED] hours per week and earning \$[REDACTED] every two weeks. Petitioner also reported that she no longer receives child support. (Exhibit A, pp. 111-116)
 15. On October 27, 2020, an interview was completed with Petitioner for the application for FAP for herself and DS. Petitioner confirmed the household size was two and they do purchase and prepare together. It was noted that Petitioner's hours at work ranged from [REDACTED] hours to [REDACTED] hours on recent paychecks. Petitioner reported she received some extra frontline worker pay but it was not representative of her ongoing pay. Petitioner confirmed her average was [REDACTED] hours per week, [REDACTED] hours per pay period. Petitioner also reported that the child support income would end that month. (Exhibit A, pp. 117-119)
 16. On November 24, 2020, a Notice of Case Action was issued to Petitioner denying FAP for October 2020 due to exceeding the gross income limit and approving FAP for a household size of two effective November 1, 2020. The Notice indicated Petitioner was a simplified reporter and was only required to report when household gross monthly income exceeded \$1,868.00. A change in income over this amount was to be reported by the 10th day of the following month. (Exhibit A, pp. 121-127)
 17. On March 22, 2021, a Notice of Case Action was issued to Petitioner closing the FAP case effective April 1, 2021 based on exceeding the gross income limit. (Exhibit A, pp. 128-131)
 18. An Earnings Request documented Petitioner's earnings from [REDACTED] [REDACTED] from pay dates [REDACTED] 2020 through [REDACTED] 2021. (Exhibit A, pp. 50-80)
 19. The Department determined that Petitioner was overissued FAP benefits from December 1, 2020 to March 31, 2021 in the amount of \$1,658.00 due to client error of failing to report that the household exceeded the SR limit from October 2020 through March 2021. (Exhibit A, pp. 3, 38, and 41-49)
 20. On January 14, 2025, the Department sent Petitioner a Notice of Overissuance instructing her that a \$1,658.00 overissuance of FAP benefits occurred from

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December 1, 2020 to March 31, 2021 due to client error and would be recouped. (Exhibit A, pp. 32-37)

21. On February 3, 2025, the Department received Petitioner's requests for hearing protesting the recoupment of FAP benefits. (Exhibit A, pp. 7-15)

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.

Department policy requires clients to completely and truthfully answer all questions on forms and in interview. BAM 105 (October 1, 2019) p. 9. Generally, clients must also report changes in circumstance that potentially affect eligibility or benefit amount within 10 days. BAM 105, pp. 11-13. However, the change reporting requirements are different for FAP simplified reporters. FAP simplified reporting households must report when the household monthly income exceeds the monthly gross income limit for its household size. 7 CFR 273.12(a)(5)(ii)(G)(1) Further, periodic reports are to be submitted on which it is requested that the household report any changes in circumstances. 7 CFR 273.12(a)(5)(iii). Similarly, Department policy regarding change reporting for FAP simplified reporting household indicates that simplified reporting groups are required to report only when the group's actual gross monthly income (not converted) exceeds the Simplified Reporting (SR) income limit for their group size. If the group has an increase in income, the group must determine their total gross income at the end of that month. If the total gross income exceeds the group's SR income limit, the group must report this change to their specialist by the 10th day of the following month, or the next business day if the 10th day falls on a weekend or holiday. Once assigned to SR, the group remains in SR throughout the current benefit period unless they report changes at their semi-annual contact or redetermination that make them ineligible for SR. BAM 200, January 1, 2020, p. 1. Groups meeting the simplified reporting category at application and redetermination are assigned a 12-month benefit period and are required to have a semi-annual contact. BAM 200, p. 3.

For FAP, the Department will act on a change reported by means other than a tape match within 10 days of becoming aware of the change. BAM 220, April 1, 2020,

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p. 7. A pending negative action occurs when a negative action requires timely notice based on the eligibility rules in this item. Timely notice means that the action taken by the department is effective at least 12 calendar days following the date of the department's action. BAM 220, p. 13.

When a client group receives more benefits than it is entitled to receive, the Department must attempt to recoup the overpayment. BAM 700, June 1, 2024, p. 1. An agency error is a type of overpayment or underissuance resulting from an incorrect action or failure to take action by the state agency. A client error is a type of overpayment or underissuance resulting from inaccurate reporting on the part of the household. BAM 700, p. 5. Agency and client errors are not pursued if the OP amount is equal to or less than \$250 per program. BAM 700 p. 5.

The Department determined that Petitioner was overissued FAP benefits from June 1, 2020 to July 31, 2020 in the amount of \$710.00 due to agency error of failing to timely update income from [REDACTED] (Exhibit A, pp. 3, 23, and 25-31; OEA Testimony).

On April 3, 2020, Petitioner applied for FAP for a household of two, herself and a living partner DS. It was reported that Petitioner and DS do not buy and make food separately. Petitioner reported employment with [REDACTED] but indicated she was off work due to illness. (Exhibit A, pp. 88-93). On April 16, 2020, an interview was completed with Petitioner for the application for FAP for herself and DS. Petitioner reported she was not currently working due to illness and the only income they have is the child support Petitioner receives. (Exhibit A, pp. 94-95).

On April 16, 2020, a Notice of Case Action was issued to Petitioner approving FAP for a household size of two effective April 6, 2020. A budget summary was included showing no earned income and unearned income of \$284.00 was included in the FAP budget. The Notice indicated Petitioner was a simplified reporter and was only required to report when household gross monthly income exceeded \$1,832.00. A change in income over this amount was to be reported by the 10th day of the following month (Exhibit A, pp. 96-103).

The Department asserted that on April 23, 2020, Petitioner reported her income would start again on [REDACTED], 2020. (Exhibit A, p. 3; OEA Testimony). If that were accurate, there is no specific action the Department could have taken at the time of the April 23, 2020 report because it appeared Petitioner was not yet working and only expected to resume work with an unknown amount of income starting [REDACTED], 2020. For example, no request for current verification of income could have been made at that time because income was not expected to start for another month and as presented, it did not appear that Petitioner had already returned to work.

However, the evidence shows that on April 27, 2020, Petitioner submitted a Report Changes and indicated she returned to work [REDACTED], 2020, but her first check in [REDACTED] would only be for [REDACTED] hours instead of the normal 80 hours. Petitioner stated she would

not get a full paycheck until [REDACTED], 2020. (Exhibit A, pp. 104-105). The report documented that Petitioner had already returned to work and gave specific information for the current and future work hours. The Department could have requested that Petitioner provide any needed additional verification from her employer, such as her pay rate, so that the income could be budgeted in time to affect the June 2020 FAP issuance.

On June 5, 2020, Petitioner submitted a paycheck stub and income was budgeted. (Exhibit A, p. 3). It appears that this would have been the initial paycheck with the reduced hours. Again, if additional information was needed, the Department could have requested that Petitioner provide any needed additional verification from her employer so that the income could be budgeted in time to affect the July 2020 FAP issuance.

The submitted evidence does not establish when the Department requested further verification of employment income. However, on August 24, 2020, a Notice of Case Action was issued to Petitioner closing the FAP case effective September 1, 2020 based on a failure to return requested verification. (Exhibit A, pp. 106-110).

An Earnings Request documented Petitioner's earnings from [REDACTED] from pay dates [REDACTED] 2020 through [REDACTED], 2021. (Exhibit A, pp. 50-80). Petitioner's gross employment income exceeded the SR limit in May 2020, June 2020, and July 2020. (Exhibit A, pp. 62-68). The Department verified child support Petitioner received from April 3, 2020 through October 2, 2020. (Exhibit A, p. 86). The Department verified Petitioner's rent as of April 15, 2020. (Exhibit A, p. 87). Using the verified [REDACTED] income, the Department redetermined Petitioner's eligibility for FAP and determined that Petitioner was overissued FAP benefits from June 1, 2020 to July 31, 2020 in the amount of \$710.00 due to agency error of failing to timely update income from [REDACTED] (Exhibit A, pp. 3, 23, and 25-31; OEA Testimony). Accordingly, on January 14, 2025, the Department sent Petitioner a Notice of Overissuance instructing her that a \$710.00 overissuance of FAP benefits occurred from June 1, 2020 to July 31, 2020 due to Agency Error and would be recouped. (Exhibit A, pp. 17-22).

The Department determined that Petitioner was overissued FAP benefits from December 1, 2020 to March 31, 2021 in the amount of \$1,658.00 due to client error of failing to report that the household exceeded the SR limit from October 2020 through March 2021. (Exhibit A, pp. 3, 38, and 41-49).

On October 26, 2020, Petitioner applied for FAP for a household of two, herself and a living partner DS. It was reported that Petitioner and DS do not buy and make food separately. Petitioner reported employment with [REDACTED] 38 hours per week and earning \$[REDACTED] every two weeks. Petitioner also reported that she no longer receives child support. (Exhibit A, pp. 111-116). On October 27, 2020, an interview was completed with Petitioner for the application for FAP for herself and DS. Petitioner confirmed the household size was two and they do purchase and prepare together. It was noted that Petitioner's hours at work ranged from [REDACTED] hours to [REDACTED] hours

31, 2021 in the amount of \$1,658.00 due to client error of failing to report that the household exceeded the SR limit from October 2020 through March 2021. Therefore, the Department properly sought recoupment of both the \$710.00 agency error overpayment of FAP benefits and the \$1,658.00 client error overpayment of FAP benefits from Petitioner.

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 that Petitioner received the \$710.00 overpayment of FAP benefits from June 1, 2020 to July 31, 2020 due to agency error of failing to timely update income from [REDACTED] and the \$1,658.00 overpayment of FAP benefits from December 1, 2020 to March 31, 2021 due to client error of failing to report that the household exceeded the SR limit from October 2020 through March 2021, both of which must be recouped.

DECISION AND ORDER

Accordingly, the Department's decisions are **AFFIRMED**.



COLLEEN LACK
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. Requests MOAHR receives more than 30 days from the mailing date of this Hearing Decision may be considered untimely and dismissed. 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

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Via Electronic Mail:

Agency Representative

ALISON PECK
OVERPAYMENT ESTABLISHMENT SECTION (OES)
235 S GRAND AVE STE 811
LANSING, MI 48933
MDHHS-RECOUPMENT-HEARINGS@MICHIGAN.GOV

Respondent

ST CLAIR COUNTY DHHS
220 FORT ST
PORT HURON, MI 48060
MDHHS-STCLAIR-HEARINGS@MICHIGAN.GOV

Interested Parties

BSC2
M HOLDEN
B CABANAW
N DENSON-SOGBAKA
ST. CLAIR COUNTY DHHS
MDHHS RECOUPMENT
MOAHR

Via First Class Mail:

Petitioner

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██████████████████
██████████ MI ██████████