



Date Mailed: March 14, 2025

Docket No.: 25-005600

Case No.: [REDACTED]

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.

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 March 5, 2025. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS or Department) was represented by Sharion Hopson, Overpayment Establishment Analyst.

ISSUE

Did Petitioner receive an overpayment (OP) of Food Assistance Program (FAP) benefits due to an agency error 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. At all times relevant to this case, Petitioner was an ongoing recipient of FAP benefits for a FAP group size of three (3).
2. Petitioner's FAP group included herself, her husband, and her minor child.
3. On [REDACTED] 2021, Petitioner submitted an Assistance Application to the Department for FAP benefits for herself and her household. Petitioner indicated in

her application that she was employed within the last 30 days at [REDACTED] but had recently lost her job. Exhibit A, p. 47.

4. On October 8, 2021, the Department issued a Notice of Case Action (NOCA) to Petitioner informing her that she was approved for FAP benefits effective October 1, 2021, in the amount of \$658 per month. Exhibit A, pp. 49-53. Included with the NOCA was a Change Report form reminding Petitioner to report changes about anyone in her household within 10 days of the change, such as new employment or income. Exhibit A, pp. 54-56.
5. In 2022, Petitioner started working at Healthy Smiles Dental Care (Employer 1) and Petitioner's husband started working at [REDACTED] (Employer 2).
6. On February 21, 2022, a New Hire notice was generated for Petitioner's husband's job at Employer 2. This notice was due to be completed by the Department by March 14, 2022 but was not acted on. The Department established their failure to act as an agency error.
7. On February 22, 2022, Petitioner received her first paycheck from Employer 1. Petitioner did not report this income to the Department. However, due to the Department's failure to act regarding Petitioner's husband's new hire notice, the Department established Petitioner's failure to report her income as an agency error.
8. On August 18, 2022, Petitioner submitted a FAP redetermination application to the Department. Exhibit A, pp. 58-62. In the redetermination, Petitioner reported income for herself and her husband. Exhibit A, p. 60.
9. On September 16, 2022, the Department issued a NOCA to Petitioner informing her that her FAP benefits would terminate effective October 1, 2022 due to excess gross income. Exhibit A, p. 63.
10. Petitioner's FAP case closed effective October 1, 2022.
11. On September 16, 2022, the local office sent an Overissuance Referral (DHS-4701) to the Overpayment Establishment Analyst due to unbudgeted income on Petitioner's FAP case. Exhibit A, p. 67.
12. On November 13, 2024, the Department sent a Notice of Overissuance to Petitioner indicating that she was overpaid FAP benefits during the period of April 1, 2022 through September 30, 2022, in the amount of \$3,978, due to agency error. Exhibit A, pp. 13-15.
13. On January 27, 2025, Petitioner submitted a request for hearing disputing the Department's FAP OP determination. Exhibit A, pp. 7-8.

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 disputes the Department's finding that her FAP group was overpaid \$3,978 in FAP benefits from April 1, 2022 through September 30, 2022, due to an agency error.

Pursuant to BAM 105, clients have a responsibility to cooperate with the Department in determining initial and ongoing eligibility. Clients must completely and truthfully answer all questions on forms and in interviews. BAM 105 (October 2021), p. 9. Clients must also report changes in circumstance that potentially affect eligibility or benefit amount within 10 days. FAP recipients who are not simplified reporters are required to report starting or stopping employment and changes in circumstances that potentially affect eligibility or benefit amount within ten days of receiving the first payment reflecting the change. BAM 105, pp. 12-13.

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 (November 2021), pp. 7-8. A pending negative action occurs when a negative action requires timely notice based on eligibility rules. 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. 12

When a client, household, or provider receives more benefits than they are eligible to receive, the Department must attempt to recoup the OP. BAM 700 (June 2024), p. 1. The amount of the FAP OP is the benefit amount the client actually received minus the amount the client was eligible to receive. BAM 705 (June 2024), p. 2; 7 CFR 273.18(c)(1). An OP can be caused by client error, agency error, or an intentional program violation (IPV). BAM 700, p. 2. A client error is a type of overpayment resulting from inaccurate reporting on the part of the household. BAM 700, p. 2. Federal regulations do not allow the Department latitude to exercise discretion in establishing and pursuing a claim of OP. 7 CFR 273.18(a)(2). The Department must go back to at least twelve months before it became aware of the overpayment; however, it cannot include amounts that occurred more than six years before it became aware of the overpayment. 7 CFR 273.18(c)(i); BAM 715, p. 3.

In this case, the recoupment specialist testified that she started the OP period April 1, 2022 by applying the reporting and timely notice standards from February 21, 2022, the date of the New Hire notice for Petitioner's husband and February 22, 2022, the date of Petitioner's first paycheck. FAP recipients who are not simplified reporters are required to report starting or stopping employment and changes in circumstances that potentially affect eligibility or benefit amount within ten days of receiving the first payment reflecting the change. BAM 105 (January 2025), pp. 10-12; 7 CFR 273.10(b)(1)(i). The Department then has ten days to process the change and, if it results in a decrease in benefits, it gives the client 12 days before the negative action impacts the benefits issued. BAM 220 (November 2023), p. 7, 12. While this is not how the start of the OP period is determined according to policy, this ultimately benefits Petitioner. MDHHS ended the OP period when Petitioner's FAP case was closed, effective October 1, 2022.

Because the referral to the recoupment specialist was made in this case on September 16, 2022 (Exhibit A, p. 67), the Department may properly pursue an OP against Petitioner for the period of April 1, 2022 through September 30, 2022, which is a period that starts within twelve months prior to the referral date and within six years of when the Department became aware of the overpayment. Therefore, the Department properly determined the overpayment period.

Because the Department failed to act on a New Hire notice for Petitioner's husband as required by policy, the Department determined that Petitioner received the FAP OP due to an agency error. In support of its calculations of the OP, the Department presented OP budgets for each month of the OP period. The Department established that it calculated the OP total for these periods by calculating what Petitioner's FAP budget would have been for each month during the OP period had the group's earned income been included in the FAP household budget. BEM 505 (October 2023), pp. 13-14; Exhibit A, pp. 19-31. To calculate Petitioner's FAP group's income for the purpose of determining the OP amount, the Department utilized employment income information for Petitioner and Petitioner's husband from the Work Number database.¹

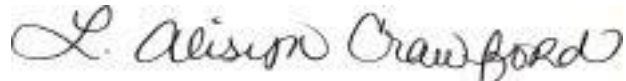
A review of the OP budgets shows that the Department correctly calculated Petitioner's FAP group's earned monthly income for Petitioner and Petitioner's husband based on actual gross pay for each month at issue. Exhibit A, pp. 19-31. Based on the FAP group's earned income during the OP period, Petitioner's FAP group was not eligible for any FAP benefits from April 1, 2022 through October 1, 2022 due to excess gross income for a FAP group size of three. Therefore, the Department properly determined that it is entitled to recoup a \$3978.00 FAP OP that Petitioner received due to an agency error.

¹ The Work Number is a tool provided by Equifax Verification Services that the Department uses to verify clients' employment information through wage matches.

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 properly determined that it is entitled to recoup a \$3,978 FAP OP that Petitioner received during the period of April 1, 2022 through September 30, 2022, due to an agency error.

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



**L. ALISYN CRAWFORD
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:

Respondent

JACKSON COUNTY DHHS
301 E LOUIS GLICK HWY
JACKSON, MI 49201

MDHHS-JACKSON-HEARINGS@MICHIGAN.GOV

Agency Representative

SHARION HOPSON
OVERPAYMENT ESTABLISHMENT SECTION (OES)
235 S GRAND AVE STE 811
LANSING, MI 48933

MDHHS-RECOUPMENT-HEARINGS@MICHIGAN.GOV

Interested Parties

BSC4
M HOLDEN
B CABANAW
MOAHR

Via First Class Mail:

Petitioner

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