



Date Mailed: March 18, 2025

Docket No.: 25-006458

Case No.:

Petitioner:

«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 Mary Peterson, Overpayment Establishment Analyst.

ISSUE

Did Petitioner receive an overpayment (OP) of Food Assistance Program (FAP) benefits due to 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 group size of three (3).
2. Petitioner's FAP group included herself, her adult son, and her minor son.

-
-
3. On [REDACTED] 2021, Petitioner submitted an Assistance Application for FAP benefits. Exhibit A, pp. 8-13. No employment income was reported. The only income noted for the household was monthly child support payments. Exhibit A, p. 12.
 4. On September 13, 2021, a Notice of Case Action (NOCA) was issued to Petitioner approving FAP benefits for a household size of three in the amount of \$369 for the period of September 13, 2021 through September 30, 2021, and \$658 for the period of October 1, 2021 through August 31, 2022. A budget summary was included showing unearned child support income in the amount of \$[REDACTED] was included in the FAP budget. The NOCA indicated Petitioner was a change reporter and was informed to report changes in circumstances within ten days of the change. Exhibit A, pp. 17-25. Changes can include household income, work-related activities, assets, etc.
 5. On October 11, 2021, a New Hire match was generated for Petitioner's adult son for VS Pizza (Employer 1) for which the Department failed to act upon. Petitioner's adult son received his first paycheck from Employer 1 on September 27, 2021 and his final paycheck on March 28, 2022. Petitioner's adult son also had employment with PINS Entertainment (Employer 2) which began in the 4th quarter of 2021. Exhibit A, p. 87.
 6. On May 30, 2022, a New Hire match was generated for Petitioner for Hutchinson Aerospace (Employer 3) for which the Department failed to act upon. Petitioner received her first paycheck from Employer 3 on May 19, 2022. Exhibit A, p. 87.
 7. During the period of January 2022, February 2022, March 2022, July 2022, and August 2022, Petitioner received a \$3,765 FAP OP subject to recoupment. Exhibit A, p. 87.
 8. The FAP benefits for the months of April 2022, May 2022, and June 2022 were excluded from the recoupment period due to COVID policies in effect at that time. Exhibit A, p. 87.
 9. On January 23, 2025, the Department sent Petitioner a Notice of Overissuance instructing her that she must repay a \$3,765 OP of FAP benefits that occurred during the period of January 1, 2022 to August 30, 2022 due to agency error. Exhibit A, pp. 128-133.
 10. On February 3, 2025, the Department received Petitioner's request for a hearing disputing the Department's decision that she received a FAP OP that the Department is entitled to recoup. Exhibit A, pp. 5-6.

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

25-006458

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 finding that Petitioner is required to repay a \$3,765 FAP OP that she received during the period of January 1, 2022 to August 30, 2022, due to agency error. The FAP OP covers the months of January 1, 2022 to March 31, 2022 and July 1, 2022 to August 30, 2022.

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 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. 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 OP 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 OP; however, it cannot include amounts that occurred more than six years before it became aware of the OP. 7 CFR 273.18(c)(i); BAM 715, p. 3.

This Administrative Law Judge (ALJ) must review the Department's determination under the applicable Department policies. The ALJ has no authority to change or make any exception to Department policy. The above-cited BAM 700 policy requires the Department

25-006458

to recoup the OP when a client group receives more benefits than it is entitled to receive. This includes an OP caused by client or agency error when the amount is at least \$250 per program.

Because the referral to the recoupment specialist was made in this case on September 28, 2022 (Exhibit A, pp. 81-82), the Department may properly pursue an OP against Petitioner for the period of January 1, 2022 through August 31, 2022, which is a period that starts within twelve months prior to the referral date and within six years of when it became aware of the OP. Therefore, the Department properly determined the OP period in this case.

In this case, the Department established that it failed to act on New Hire notices that were received for Petitioner and Petitioner's son, as required by policy. During the OP period, the Department continued to issue Petitioner FAP benefits based on no earned income for Petitioner's FAP group. Based on the above, the Department properly determined the OP as an agency error.

To establish the OP amounts, the Department presented a benefit summary inquiry and OP budgets for each of the months in 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 (November 2021), pp. 13-14; Exhibit A, pp. 87-107. The benefit summary inquiry established that the Department issued \$7,055 in FAP benefits to Petitioner during the OP period. Exhibit A, p. 87. 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 adult son from the Work Number database.¹

At the hearing, Petitioner testified that she agreed with the budgets presented by the Department for July 2022 and August 2022, showing a \$1,506 FAP; however, Petitioner explained that the budgets for January 2022, February 2022, and March 2022 were inaccurate because the budgets reflected unearned income from child support that was never received. At the hearing, Petitioner testified credibly that she contacted the Department around early 2022 to report that she did not receive child support for January 2022, February 2022, and March 2022. The Department testified that based on their review of the case record, there was no documented evidence showing any call or other contact from Petitioner regarding the non-receipt of child support payments for those months. Since the OP at issue was due to the Department's failure to properly act on the employment income received by Petitioner's FAP group during the time period in question, it is reasonable to conclude that the Department inadvertently failed to properly respond to the child support information reported by Petitioner. Therefore, this ALJ finds Petitioner credible in her assertion that she reported the non-receipt of child support for the months of January 2022 through March 2022.

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

Overall, the evidence supports the Department's determination that Petitioner received an OP of FAP benefits in the amount of \$1,506 for the period of July 2022 and August 2022 that the Department is entitled to recoup. However, based on Petitioner's credible testimony that she informed the Department that she did not receive child support income in the months of January 2022 through March 2022, the Department needs to recalculate FAP budgets for those months and determine the FAP OP that Petitioner may have received.

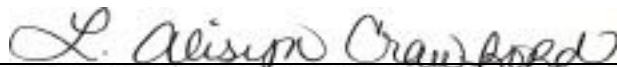
DECISION AND ORDER

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 Department policy when it determined that Petitioner received an FAP OP, in the amount of \$1,506 due to an agency error that the Department is entitled to recoup. However, the Department failed to establish that it properly determined the FAP OP amount for the months of January 2022 through March 2022.

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. Redetermine the agency error FAP OP that Petitioner may have received for the period of January 2022, February 2022, and March 2022, in accordance with Department policy.



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. 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:

Respondent

GRATIOT COUNTY DHHS
201 COMMERCE DR
ITHACA, MI 48847

MDHHS-GRATIOT-HEARINGS@MICHIGAN.GOV

Agency Representative

MARY PETERSON
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

[REDACTED]
[REDACTED]
[REDACTED] MI [REDACTED]