



Date Mailed: February 27, 2025

Docket No.: 25-004739

Case No.: [REDACTED]

Petitioner: [REDACTED]

«RECIP\_FULL\_NAME»

«RECIP\_ADD0»

«RECIP\_ADD1»

«RECIP\_ADD2»

«RECIP\_CITY», «RECIP\_SPCODE»

«RECIP\_POSTAL»

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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; 42 CFR 438.400 to 438.424; 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 by telephone on February 24, 2025. Petitioner appeared and was represented by their Authorized Hearing Representative (AHR), [REDACTED]. The Department of Health and Human Services (Department) was represented by Anna Peterson, Overpayment Establishment Analyst, and Rosemary Molsbee-Smith, Eligibility Specialist.

### **ISSUE**

Did the Department properly determine that Petitioner receive an overpayment (OP) of Food Assistance Program (FAP) benefits in the amount of \$1,250, for the period of January 1, 2022 through May 31, 2022, due to agency error (AE)?

### **FINDINGS OF FACT**

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

1. On [REDACTED] 2021, the Department received a completed redetermination application for FAP from Petitioner through MiBridges. Petitioner reported he was disabled and received income from employment and Retirement, Survivors, and Disability Insurance (RSDI). He asked the Department to contact his Independent Support Coordinator to complete the interview. (Exhibit A, pp. 74 – 76).

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2. On November 30, 2021, the Department sent Petitioner a Notice of Case Action (NOCA) that approved Petitioner for FAP benefits of \$20 per month effective December 1, 2021 ongoing. (Exhibit A, pp. 50 – 51).
  3. From January 1, 2022 through May 31, 2022, Petitioner received FAP benefits and Emergency Allotments (EA) in the amount of \$1,250. (Exhibit A, pp. 16 – 17).
  4. The Department did not budget all of Petitioner's RSDI income when it determined his FAP eligibility and benefit amount. (Exhibit A, p. 1).
  5. On January 13, 2025, the Department sent Petitioner a Notice of Overissuance informing Petitioner that he received more benefits than he was eligible to receive for the period of January 1, 2022 through May 31, 2022 due to AE, for a total OP of \$1,250. (Exhibit A, pp. 8 – 13).
  6. The Department alleged that based on Petitioner's total monthly household income for each month from January 1, 2022 to May 31, 2022, Petitioner was not eligible for any FAP benefits during those months. (Exhibit A, pp. 35 – 44).
  7. On January 31, 2025, the Department received a request for hearing from Petitioner regarding the Department's request to recoup an OP of FAP benefits. (Exhibit A, pp. 3 – 4).

### **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 requested a hearing in this matter to dispute the finding by the Department that Petitioner received a FAP OP that he is required to repay. The Department is seeking to recover a FAP OP for the period of January 1, 2022 through May 31, 2022 in the amount of \$1,250 due to AE.

When a client group receives more benefits than entitled to receive, the Department must attempt to recoup the OP. BAM 700 (June 2024), p. 1; 7 CFR 273.18(a)(2). The

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amount of a FAP OP is the benefit amount the client actually received minus the amount the client was eligible to receive. BAM 705 (June 2024), p. 6; 7 CFR 273.18(c)(1). An OP can be caused by client error (CE), AE, or an intentional program violation (IPV). BAM 700, pp. 5 – 9. An AE is caused by incorrect actions by the Department, including not using available information. BAM 700, p. 2; 705, p. 1; 7 CFR 273.18(b)(3).

When an OP, due to AE, in excess of \$250.00 is discovered, the Department is required to establish a claim for repayment for the OP. BAM 700, p. 5; BAM 705, p. 7; 7 CFR 273.18(d)(3). The Department must go back to at least twelve months before it became aware of the OP, but it cannot include amounts that occurred more than six years before it became aware of the OP. BAM 705, pp. 37 CFR 273.18(c)(i); BAM 705, pp. 5 – 6.

Due to the COVID-19 pandemic, the federal government authorized the State of Michigan to issue Emergency Allotments (EA) to all FAP households, meaning that FAP households not receiving the maximum benefit for their group size would receive a supplement to bring their benefit amount to the maximum for their group size. ESA Memo 2020-15 (March 2020). The State of Michigan issued EA from April 2020 to September 2022. ESA Memo 2022-39 (January 2022). In addition, beginning in May 2021, the Department began issuing a minimum \$95 supplement to all FAP households, including households that were already receiving the maximum allotment for their household size. ESA Memo 2021-22 (May 2021). Wrongfully-issued EA are recoupable by the Department if the FAP household is not eligible for any FAP benefits during the month at issue.

In this case, although the Department alleged Petitioner received an OP from January 1, 2021 through May 31, 2022 (OP period), it testified that it limited the OP period to January 1, 2022 through May 31, 2022 pursuant to policy and Petitioner's partial eligibility for FAP benefits for the period of June 1, 2021 through December 31, 2021.

The Department testified that it discovered that Petitioner was receiving dual RSDI benefits that it did not budget properly when it determined his FAP benefit eligibility and, as a result, Petitioner received an OP of FAP benefits due to AE. BAM 705, p. 1; BEM 505 (November 2021), pp. 1 – 3. Petitioner's AHR confirmed that Petitioner received dual RSDI benefits during the OP period.

In support of its calculations of an OP, the Department presented OP budgets for each month of the OP period. (Exhibit A, pp. 35 – 44). The Department testified that it calculated the OP total by budgeting Petitioner's correct RSDI income for each month of the OP period but made no other changes to Petitioner's FAP budgets. BEM 505, pp. 13 – 14. The evidence established that when the Department properly budgeted Petitioner's RSDI income, Petitioner had income in excess of the gross income limit for FAP for each month of the OP period. Therefore, Petitioner was not eligible for any FAP

benefits from January 1, 2022 through May 31, 2022 and the Department is entitled to recoup the overpaid FAP benefits.

### **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 an OP of FAP benefits were issued to Petitioner in the amount of \$1,250 for the period of January 1, 2022 through May 31, 2022, due to AE, that the Department is entitled to recoup.

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



**CARALYCE M. LASSNER**  
**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](https://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](mailto: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.

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[REDACTED]