



Date Mailed: March 21, 2025

Docket No.: 25-007624

Case No.: [REDACTED]

Petitioner: [REDACTED]

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 13, 2025. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS or Department) was represented by Eugene Brown, Overpayment Establishment Analyst.

ISSUE

Did Petitioner receive an overpayment (OP) of Food Assistance Program (FAP) benefits due to client 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. Petitioner was a recipient of FAP benefits.
2. On [REDACTED] 2023, Petitioner applied for FAP benefits for herself, her husband (Spouse), and three minor children. The only income reported for the household was Spouse's veteran benefits, in the amount of [REDACTED] per month. Exhibit A, pp. 50-59.

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3. On December 5, 2023, a Notice of Case Action (NOCA) was issued to Petitioner approving FAP benefits in the amount of \$148 for November 27, 2023 through November 30, 2023, and \$1,113 for December 1, 2023 ongoing, for a household size of five. A budget summary was included showing no earned income and [REDACTED] in unearned income for Petitioner's household. The NOCA reminded Petitioner of the responsibility to report changes in income if the household's income went over the simplified reporting income limit of [REDACTED] Exhibit A, pp. 67-74.
 4. On December 20, 2023, Petitioner contacted the Department to inform them that Spouse was employed at Jesco Industries Inc (Employer). Petitioner provided the Department with copies of Spouse's paystubs which were uploaded on Bridges. Exhibit B, p. 1.
 5. On March 5, 2024, Petitioner submitted a renewal application for FAP to the Department. The renewal application indicated that Spouse was employed with Employer. Exhibit A, pp. 75-78.
 6. On May 10, 2024, a NOCA was issued to Petitioner approving FAP benefits in the amount of \$16 per month effective May 1, 2024 ongoing for a household size of five. The budget summary on the notice identified earned income in the amount of [REDACTED] and unearned income in the amount of [REDACTED] Exhibit A, pp. 84-88.
 7. On August 26, 2024, a NOCA was issued to Petitioner informing her that her FAP case would close effective October 1, 2024 because her household's net income exceeded the income limits for the FAP program. The budget summary on the notice showed earned income in the amount of [REDACTED] and unearned income in the amount of [REDACTED] Exhibit A, pp. 89-93.
 8. On January 30, 2025, an Overissuance Referral was sent to an overpayment establishment analyst with the Department. The referral stated that Spouse had unreported employment income that was discovered through a Wage Match in July 2024. Exhibit A, p. 96.
 9. On January 31, 2025, the Department sent an Earnings Request to Employer requesting verification of Spouse's income from employment for a period of November 1, 2023 through September 30, 2024. Exhibit A, pp. 39-40.
 10. On February 5, 2025, Employer submitted the Earnings Request form to the Department and included a copy of Spouse's payroll details for the period in question. Exhibit A, pp. 39-48.
 11. On February 5, 2025, the Department sent Petitioner a Notice of Overissuance instructing her that a \$3,376 overpayment of FAP benefits occurred from February 1, 2024 through September 30, 2024 due to client error and would be recouped. Exhibit A, pp. 9-10.

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12. On February 18, 2025, the Department received Petitioner's verbal request for a hearing disputing the recoupment of FAP benefits. Exhibit A, pp. 4-6.
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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.

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 (March 2024), 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 2023), pp. 7-8. A pended 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 overpayment. 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. An agency error is caused by incorrect action by MDHHS staff or department processes. BEM 700, p. 5. Agency errors are not pursued if less than \$250.00 per program.

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

25-007624

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.

Because the referral to the recoupment specialist was made in this case on January 30, 2025 (Exhibit A, p. 96), the Department may properly pursue an OP against Petitioner for the period of February 1, 2024 through September 30, 2024, 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 overpayment. The Department properly determined the overpayment period in this case.

At the hearing, Petitioner asserted that she called the Department in December 2023 and informed them that Spouse started working at Employer. Upon reviewing the case record at the hearing, the Department Representative testified that he was able to locate a case comment that documented Petitioner's call to the Department, but he acknowledged that the employment income that Petitioner reported was not acted on by the Department. However, even though this indicates a department error of failing to act on Petitioner's call reporting the employment occurred, recoupment is still warranted.

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

Overall, the evidence supports the Department's determination that Petitioner received an overpayment of FAP benefits for the period of February 1, 2024 through September 30, 2024, due to an agency error. Further, there is no dispute between the parties that the FAP OP was caused by the Department's error.

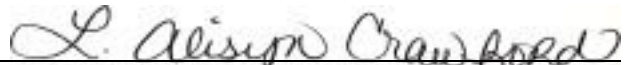
DECISION AND ORDER

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 overpayment of FAP benefits for the period of February 1, 2024 through September 30, 2024. However, the Department incorrectly classified the FAP OP as a client error when it should have been an agency error.

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. Reprocess the FAP OP determination as an agency error for the period of February 1, 2024 through September 30, 2024, 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:

Agency Representative

EUGENE BROWN

OVERPAYMENT ESTABLISHMENT SECTION (OES)

235 S GRAND AVE STE 811

LANSING, MI 48933

MDHHS-RECOUPMENT-HEARINGS@MICHIGAN.GOV

Respondent

HILLSDALE COUNTY DHHS

40 CARE DR

HILLSDALE, MI 49242

MDHHS-HILLSDALE-HEARINGS@MICHIGAN.GOV

Interested Parties

BSC4

B CABANAW

M SCHAEFER

MOAHR

Via First Class Mail:

Petitioner

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