

**Date Mailed:** June 3, 2025

**Docket No.:** 25-016572

**Case No.:** [REDACTED]

**Petitioner:** [REDACTED]

### **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 May 22, 2025. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS or Department) was represented by Kathleen Zewatsky, Overpayment Establishment Analyst. Department Exhibit 1, pp. 1-32 was received and admitted.

### **ISSUE**

Did the Department properly determine that Petitioner received an overissuance of Food Assistance Program (FAP) benefits in the amount of \$3,092?

### **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 MiCAP FAP benefits beginning in January 2017 based on his receipt of SSI.
2. On July 1, 2023, Petitioner began receiving RSDI along with his SSI.
3. On January [REDACTED] 2025, an Overissuance Referral was generated after it was discovered that Petitioner was receiving RSDI and SSI.
4. On April [REDACTED] 2025, Notice of Overissuance was sent to Petitioner alleging that he received overissuance of FAP benefits in the amount of \$[REDACTED] due to agency error for the time period from February 1, 2024, through January 31, 2025.

### **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

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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).

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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.

**OVERPAYMENT AMOUNT**  
**FIP, SDA, RCA, CDC and FAP**

The amount of benefits issued to the client, household, or provider in excess of what the recipient(s) was/were eligible to receive. BAM 700 (June 2024)

In this case, Petitioner was not eligible for MiCAP FAP after he began receiving RSDI but he was eligible for regular FAP. The Department's overissuance found that Petitioner was eligible for \$0 in FAP benefits during the overissuance period. BAM 700 instructs that the amount of overissuance is the amount issued in excess of what the recipient was eligible to receive. The Department did not make a calculation to determine what Petitioner was eligible to receive.

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## **DECISION AND ORDER**

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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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it calculated Petitioner's FAP overissuance amount.

Accordingly, the Department's decision is **AFFIRMED IN PART** with respect to finding of overissuance due to agency error and **REVERSED IN PART** with respect to the amount of the overissuance.

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. Recalculate Petitioner's overissuance amount taking into consideration what he was eligible for in regular FAP benefit during the overissuance time period.
2. Issue a new Notice of Overissuance informing of the corrected overissuance amount and how it was calculated.



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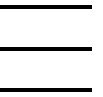
**AARON MCCLINTIC**  
**ADMINISTRATIVE LAW JUDGE**

**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](http://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](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. Requests MOAHR receives more than 30 days from the mailing date of this Hearing Decision may be considered untimely and dismissed.



**Via Electronic Mail:**

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**HOLDENM**

**MOAHR**

**Via First Class Mail:**

**Petitioner**

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]