



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

ORLENE HAWKS
DIRECTOR

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

Date Mailed: March 20, 2019
MAHS Docket No.: 19-001456
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Amanda M. T. Marler

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 telephone hearing was held on March 18, 2019, from Detroit, Michigan. The Petitioner was self-represented and had her mother [REDACTED] appear as a witness. The Department of Health and Human Services (Department) was represented by Aundrea Jones, Hearings Facilitator, and Walita Randle, Recoupment Specialist.

ISSUE

Did the Department properly determine a client error overissuance (OI) of Food Assistance Program (FAP) benefits?

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 September 19, 2017, Petitioner submitted an application for FAP benefits.
2. On January 18, 2018, Petitioner began her employment with [REDACTED] (Employer) earning \$[REDACTED] per hour with an expected [REDACTED] hours per week.
3. On January 23, 2018, Petitioner received her first paycheck from Employer.
4. Between March 2018 and May 2018, Petitioner received \$[REDACTED] per month in FAP benefits.

5. On April 20, 2018, a Verification of Employment was submitted to the Department on Petitioner's behalf for work with Employer.
6. On April 30, 2018, the Department created an OI referral based upon unreported earned income for Petitioner.
7. On June 1, 2018, the Department began budgeting Petitioner's earned income from Employer.
8. In January 2019, the Department received wage records for Petitioner's work with Employer for employment between January 18, 2018, and January 22, 2019.
9. On February 12, 2019, the Department issued a Notice of OI to Petitioner informing her that she had received a Client Error OI in the amount of \$[REDACTED] for the period from March 1, 2018, through May 31, 2018, because Petitioner had failed to report her employment income to the Department within ten days.
10. On February 20, 2019, the Department received Petitioner's request for hearing disputing the determination of an OI.
11. Petitioner admitted at the hearing that she did not report her wages to the Department within ten days of starting her employment or receiving her first paycheck.

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.

In this case, Petitioner disputes the Department's determination that she received an OI of \$[REDACTED] for the period from March 1, 2018, through May 31, 2018. In support of its position, the Department submitted OI budgets for each month of the OI period. In each month, the only items changed from the original budgets were Petitioner's unreported earned income from Employer.

To determine whether the Department properly began the OI period in March 2018, policy provides that the OI period begins after consideration of (i) the 10-day client reporting period, per BAM 105; (ii) the 10-day full standard of promptness (SOP) for change processing, per BAM 220; and (iii) the 12-day full negative action suspense period; see BAM 220, Effective Date of Change. BAM 715 (October 2017), p. 5. In situations where the client receives new income, the Client must report the change income within ten days of the first payment reflecting the change. BAM 105 (January 2018), p. 12. Since Petitioner received her first paycheck on January 23, 2018, she was required to report her net employment by February 2, 2018. From there, the Department had ten days to process the change, February 12, 2018, and 12 days to implement a negative action (reduction in FAP benefits based on new income), February 24, 2018. Since Petitioner's next benefit period after application of the above rules began on March 1, 2018, the Department properly began the OI period on March 1, 2018.

Client error OIs exist when a client gives incorrect or incomplete information to the Department. BAM 715 (October 2017), p. 1. Since Petitioner failed to inform the Department of her employment income and was required to report it, a client error OI exists.

In March 2018, Petitioner had earned income of \$[REDACTED] and \$[REDACTED] which the Department properly considered. The Department then properly applied the Standard Deduction of \$160.00, and Petitioner admits that she had no other verified expenses. RFT 255 (October 2017), p. 1. Therefore, Petitioner's net income is \$[REDACTED] for March 2018; and she was eligible to receive \$135.00 based upon a group size of two. RFT 260 (October 2017), p. 10. Since Petitioner originally received \$[REDACTED] as her FAP benefit rate, after consideration of her earned income, she received an OI of \$[REDACTED] for March 2018.

In April 2018, Petitioner had earned income of \$[REDACTED] and \$[REDACTED] which the Department properly considered. Again, the Department properly applied the \$160.00 Standard Deduction; and Petitioner did not have any other verified expenses. Therefore, Petitioner's net income was \$[REDACTED] and she was eligible for a FAP benefit of \$118.00 based upon a group size of two. RFT 260, p. 11. Since Petitioner previously received \$[REDACTED] in FAP benefits, her March 2018 OI was \$[REDACTED]

In May 2018, Petitioner had earned income of \$[REDACTED] \$[REDACTED] and \$[REDACTED]. The Department properly considered Petitioner's May 2018 income, applied the \$160.00 Standard Deduction, and did not apply any other deductions. Therefore, Petitioner's net income for May 2018 was \$[REDACTED]. In May 2018, the FAP net income limit for a group size of two was \$1,354.00. RFT 250 (October 2017), p. 1; BEM 550 (January 2017), p. 1. Petitioner's net income was greater than the net income limit in May 2018. Despite the net income limit in May 2018, the Department afforded Petitioner a \$[REDACTED] FAP benefit. This error results in a benefit to Petitioner and will not be changed for

purposes of this decision. Since the Department afforded Petitioner a FAP benefit of \$[REDACTED] she received an OI of \$[REDACTED] based upon her original benefit of \$[REDACTED]

After reviewing each of the OI budgets in the case, Petitioner received a total client error OI of \$[REDACTED]

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 a client error OI of \$[REDACTED] for March 2018 through May 2018.

DECISION AND ORDER

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



AMTM/jaf

Amanda M. T. Marler
Administrative Law Judge
for Robert Gordon, Director
Department of Health and Human Services

NOTICE OF APPEAL: A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MAHS. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MAHS Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

DHHS

Jeanenne Broadnax
MDHHS-Wayne-18-Hearings

DHHS Department Rep.

MDHHS-Recoupment

Petitioner

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

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