



GRETCHEN WHITMER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES  
SUZANNE SONNEBORN  
EXECUTIVE DIRECTOR

MARLON I. BROWN, DPA  
ACTING DIRECTOR

████████████████████  
████████████████████  
██████ MI ██████

Date Mailed: February 1, 2024  
MOAHR Docket No.: 23-009623  
Agency No.: ██████████  
Petitioner: ██████████

**ADMINISTRATIVE LAW JUDGE: Linda Jordan**

**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 on January 23, 2024, via teleconference. Petitioner appeared and represented herself. ██████████ appeared as a witness for Petitioner. Phillip Jones, Eligibility Specialist, appeared on behalf of the Michigan Department of Health and Human Services (MDHHS or Department). At the hearing, MDHHS' Hearing Packet was admitted as MDHHS Exhibit A, pp. 1-22.

**ISSUE**

Did MDHHS properly determine that Petitioner received an overissuance (OI) of Food Assistance Program (FAP) benefits in the amount of \$████████ due to client error?

**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 an ongoing recipient of FAP benefits.
2. On December 8, 2023, MDHHS sent Petitioner a Notice of Overissuance, indicating that Petitioner received more benefits that she was eligible to receive from March 1, 2023 to May 31, 2023 (alleged OI period) (Exhibit A, p. 9). The notice indicated that the total OI amount was \$████████ and was due to client error (Exhibit A, p. 9).

3. On December 19, 2023, Petitioner filed a Request for Hearing to dispute MDHHS' determination regarding the alleged FAP OI (Exhibit A, pp. 4-6).

### **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 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. MDHHS 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, MDHHS determined that Petitioner received an OI of FAP benefits in the amount of \$528.00 due to client error. Petitioner disputed MDHHS' determination.

When a client group receives more benefits than entitled to receive, MDHHS must attempt to recoup the OI as a recipient claim. 7 CFR 273.18(a)(2); BAM 700 (October 2018), p. 1. The amount of a FAP OI is the benefit amount the client actually received minus the amount the client was eligible to receive. 7 CFR 273.18(c)(1); BAM 720, p. 8; BAM 715 (October 2017), p. 6; BAM 705 (October 2018), p. 6. An OI can be caused by client error, agency error, or an intentional program violation (IPV). BEM 700, pp. 5-9. 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. *Id.* Conversely, a client error occurs when the OI was due to the client giving incorrect or incomplete information to MDHHS. BEM 700, p. 7.

Here, MDHHS testified that Petitioner properly reported a change in household income to MDHHS, and MDHHS failed to process the change in a timely manner. MDHHS testified that Petitioner reported an increase in Retirement, Survivors and Disability Insurance (RSDI) income in December 2022, but MDHHS did not act on the reported change for several months. Petitioner confirmed the validity of MDHHS' testimony.

Given the undisputed evidence that the alleged OI was caused by agency error, rather than client error, MDHHS has not established that it properly determined that Petitioner received a FAP OI due to client error. Additionally, no FAP budgets were introduced to show that Petitioner did not qualify for FAP benefits during the alleged OI period. Petitioner is advised that MDHHS can pursue a FAP OI based on agency error, as described in the policy stated above.

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 MDHHS did not act

in accordance with Department policy when it determined that Petitioner received an OI of FAP benefits in the amount of \$ [REDACTED] based on client error.

**DECISION AND ORDER**

Accordingly, MDHHS' decision is **REVERSED**.

**MDHHS IS ORDERED**, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER, to delete the FAP OI in the amount of \$528.00 in its entirety and cease any recoupment or collection actions.



---

**Linda Jordan**  
Administrative Law Judge

LJ/tm

**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 Office of Administrative Hearings and Rules (MOAHR).

A party may request a rehearing or reconsideration of this Order if the request is received by MOAHR 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. MOAHR will not review any response to a request for rehearing/reconsideration.

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

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

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

**Via-Electronic Mail :**

**DHHS**

Yvonne Hill  
Oakland County DHHS Madison  
Heights Dist.  
30755 Montpelier Drive  
Madison Heights, MI 48071  
**MDHHS-Oakland-DistrictII-  
Hearings@michigan.gov**

**Interested Parties**

M. Holden  
N. Denson-Sogbaka  
B. Cabanaw  
BSC4

**Via-First Class Mail :**

**Petitioner**

████████████████████  
████████████████████  
████ MI ██████████