



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
DIRECTOR

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

Date Mailed: April 18, 2024
MOAHR Docket No.: 24-002663
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Caralyce M. Lassner

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 April 11, 2024. Petitioner appeared and was represented by their Authorized Hearing Representative (AHR), [REDACTED] [REDACTED]. The Department of Health and Human Services (Department) was represented by Bernice Ray, Overpayment Establishment Analyst, and Angela Ware, Eligibility Specialist.

ISSUE

Did Petitioner receive an overissuance (OI) of Food Assistance Program (FAP) benefits from May 1, 2023 to January 31, 2024, in the amount of \$2,015, due to agency 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. At all times relevant to this case, Petitioner was an ongoing recipient of FAP benefits for a four-person household. (Exhibit A, pp. 19 – 20).
2. On March 10, 2023, Petitioner submitted a redetermination application and disclosed Retirement, Survivors, and Disability Insurance (RSDI) income for herself and her minor child [REDACTED] (SA), and the end of employment income for [REDACTED] (WA), her adult daughter and FAP group member. (Exhibit A, pp. 15 – 17).

3. The Department failed to add Petitioner and SA's RSDI income to Petitioner's budget when it approved Petitioner's FAP benefits for May 1, 2023 ongoing. (Exhibit A, pp. 54 – 55, 62).
4. The Department failed to remove WA's income to Petitioner's budget when it approved Petitioner's FAP benefits for May 1, 2023 ongoing. (Exhibit A, pp. 1, 54 – 55, 62).
5. On May 9, 2023, the Department sent a New Hire Client Notice to Petitioner for new employment for ██████████ (OM), another adult daughter and FAP group member, which OM completed on May 15, 2023 and returned to the Department. (Exhibit A, pp. 65 – 67).
6. The Department failed to add OM's income to Petitioner's budget for Petitioner's FAP benefits for July 1, 2023 ongoing. (Exhibit A, pp. 1, 54 – 55, 61 – 62).
7. Between May 1, 2023 and January 31, 2024, the Department budgeted Petitioner's housing expense as \$291.67. (Exhibit A, pp. 43, 50, 57).
8. On January 23, 2024, the Department completed a FAP Quality Control Review (QC) of Petitioner's FAP case and discovered the Department's errors as to Petitioner's group's income. The QC report also found that Petitioner's budgeted housing expense was not accurately calculated. (Exhibit A, pp. 61 – 63).
9. Following the QC report, the Department re-reviewed the group's income and housing expense and recalculated the FAP benefit amount Petitioner should have received for each month from May 2023 through January 2024.
10. The Department determined that Petitioner was underissued FAP benefits for May 2023, June 2023, December 2023, and January 2024 in the amount of \$262. (Exhibit A, p. 21).
11. The Department determined that Petitioner received \$2,277 in FAP benefits that Petitioner should not have received based on the group's actual income for the months of July 2023 through November 2023. (Exhibit A, pp. 19 – 21).
12. On March 1, 2024, the Department sent Petitioner a Notice of Overissuance in the amount of \$2,015 for the period of May 1, 2023 through January 31, 2024 due to agency error, offsetting the underissuance against the OI. (Exhibit A, pp. 18, 76 – 81).
13. On March 6, 2024, the Department received Petitioner's request for hearing, disputing the OI. (Exhibit A, pp. 4 – 5).

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 to dispute that she owes an OI because she timely reported all income and changes to the Department and the Department failed to process the reported changes.

When a client group receives more benefits than entitled to receive, the Department must attempt to recoup the OI. BAM 700 (October 2018), p. 1; 7 CFR 273.18(a)(2). The amount of a FAP OI is the benefit amount the client actually received minus the amount the client was eligible to receive. BAM 705 (October 2018), p. 6; 7 CFR 273.18(c)(1). An OI can be caused by client error, agency error, or an intentional program violation (IPV). BAM 700, pp. 5 – 9. An agency error is caused by incorrect actions by the Department, including not using available information. BAM 700, pp. 5 – 6; BAM 705, p. 1; 7 CFR 273.18(b)(3). When an OI due to agency error, in excess of \$250.00, is discovered, the Department is required to establish a claim for repayment for the OI. BAM 700, p. 5; BAM 705, p. 7; 7 CFR 273.18(d)(3).

In this case, the Department determined Petitioner's FAP group eligibility, and issued benefits, without consideration of changes in the household income of multiple group members as required by policy and by miscalculating Petitioner's excess shelter deduction. BEM 505, pp. 1, 6 – 12. Errors in Petitioner's case were identified during the QC review, which prompted the Department to fully review Petitioner's case from May 2023 forward. The Department acknowledged that it erred in failing to process the changes reported during the redetermination process when it failed to add Petitioner and SA's RSDI income and remove WA's employment income, when determining Petitioner's FAP benefit rate for May 2023 ongoing. BEM 500 (April 2022), p. 1; BEM 503 (January 2023), pp. 29 – 30; BEM 505 (October 2022) (October 2023), p. 8. The Department also acknowledged that it erred in failing to process OM's reported income to affect the benefit period beginning July 2023. BEM 501 (July 2022), pp. 6 – 7; BEM 505, p. 12. Lastly, a QC review revealed that the Department improperly calculated Petitioner's housing expense, which resulted in an ongoing error in Petitioner's excess shelter deduction. (Exhibit A, p. 62). BEM 554 (April 2023), pp. 13 – 15. As a result, the Department determined Petitioner was overissued \$2,015 in FAP benefits from May 1, 2023 through January 1, 2024 due to agency error. BAM 705, p. 1.

In support of its calculations of an OI, the Department presented OI budgets for each month of the OI period. The Department testified that it calculated the OI total for these periods by calculating what Petitioner's FAP budget would have been for each month during the OI period, had the correct earned and unearned incomes been included in the household budget and had the correct housing expense been used. (Exhibit A, pp. 22 - 39).

As to each month in the OI period, the Department adjusted the group's income as follows:

May 2023	Added Petitioner and SA's RSDI incomes, Removed WA's earned income.
June 2023	Added Petitioner and SA's RSDI incomes, Removed WA's earned income.
July 2023	Added Petitioner and SA's RSDI incomes, Removed WA's earned income, Added OM's earned income.
August 2023	Added Petitioner and SA's RSDI incomes, Removed WA's earned income, Added OM's earned income.
October 2023	Added Petitioner and SA's RSDI incomes, Removed WA's earned income, Added OM's earned income.
November 2023	Added Petitioner and SA's RSDI incomes, Removed WA's earned income, Added OM's earned income.
December 2023	Added Petitioner and SA's RSDI incomes, Removed WA's earned income, Removed OM's earned income.
January 2023	Added Petitioner and SA's RSDI incomes, Removed WA's earned income, Removed OM's earned income.

To calculate OM's income for purposes of determining the OI, the Department utilized a pay statement history provided by OM's then-employer. (Exhibit A, p. 72).

The Department had originally budgeted Petitioner's housing expense based on Petitioner's report, on her [REDACTED] 2022 application, of paying \$3,500 annually, \$291.67 per month, for property taxes. (Exhibit A, pp. 8, 13, 62). When the Department

completed the QC review, it recalculated Petitioner's housing expense based on actual amount of the Winter 2022 and Summer 2023 property taxes, which reduced the amount of Petitioner's housing expense to \$223.99 per month¹. (Exhibit A, p. 62).

The Department testified that the changes in Petitioner's FAP budgets, when calculating the OI budget versus the original budget, were the inclusion or removal of income in each month of the budgets as set forth above, correcting Petitioner's housing expense on each budget, and the corresponding adjustment to the excess shelter deduction calculation. (Exhibit A, pp. 22 – 39). A review of the OI budgets shows that the Department correctly calculated the group's income and housing expense based on actual income and earnings. (Exhibit A, pp. 22 – 39).

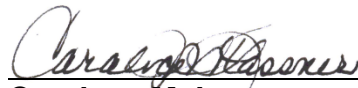
A review of the FAP OI budgets shows that, when the Department corrected the income and shelter expenses for the budgets for May 2023, June 2023, December 2023, and January 2024, Petitioner was underissued benefits in those months, in the total amount of \$262. (Exhibit A, pp. 21 – 25, 36 – 39). However, when the Department corrected the budgets for each month from July 2023 through November 2023, Petitioner's FAP group received \$2,277 more in FAP benefits than it was eligible to receive and therefore received an OI of FAP benefits during that period. (Exhibit A, pp. 19 – 20, 26 – 35). To determine the total amount of FAP OI owed, the Department properly offset the overissued FAP benefits by the amount of the underissued FAP benefits. BAM 406 (January 2022), p. 1. The Department properly determined the FAP OI in the amount of \$2,015 due to agency error.

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 OI of FAP benefits to Petitioner's FAP group exists in the amount of \$2,015, due to agency error, and the Department is entitled to recoup.

DECISION AND ORDER

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

CML/nr



Caralyce M. Lassner
Administrative Law Judge

¹ The Summer 2023 property tax bill used by the Department was more favorable to the Petitioner's budget than the Summer 2022 property tax bill.

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 :

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Interested Parties
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N. Stebbins
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Overpayment Establishment Section
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Via-First Class Mail :

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