



GRETCHEN WHITMER
GOVERNOR

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

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DIRECTOR

[REDACTED]
[REDACTED], MI [REDACTED]

Date Mailed: May 24, 2024
MOAHR Docket No.: 24-004267
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 via telephone conference line on May 16, 2024. Petitioner participated and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Rhonda Holland, overpayment analyst.

ISSUES

The first issue is whether MDHHS established against Petitioner a recipient claim for over-issued Food Assistance Program (FAP) benefits.

The second issue is whether MDHHS established against Petitioner a claim for over-issued State Disability Assistance (SDA) 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. From January through December 2018, Petitioner received \$ [REDACTED] in self-employment wages.
2. From April 2018 through February 2019, MDHHS issued \$2,112 in FAP benefits to Petitioner based on Petitioner having no self-employment income.
3. From April 2018 through February 2019, MDHHS issued \$2,200 in SDA benefits to Petitioner based on Petitioner having no self-employment income.

4. On January 9, 2019, Petitioner applied for Supplemental Security Income (SSI) benefits and reported to the Social Security Administration (SSA) receipt of ongoing annual wages of \$12,500 from self-employment income.
5. After February 2019, Petitioner stopped receiving self-employment income.
6. On March 20, 2024, MDHHS mailed Petitioner a Notice of Overissuance stating Petitioner received \$1,887 in over-issued FAP benefits from April 2018 through February 2019 due to client error.
7. On March 20, 2024, MDHHS mailed Petitioner a Notice of Overissuance stating Petitioner received \$2,200 in over-issued SDA benefits from April 2018 through February 2019 due to client error.
8. On April 20, 2023, Petitioner requested a hearing to dispute the alleged OIs of FAP and SDA benefits.

CONCLUSIONS OF LAW

The 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 the FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-119b, and Mich Admin Code, R 400.3001-.3011. FAP policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing to dispute MDHHS's attempt to establish claims for allegedly over-issued FAP and SDA benefits. Exhibit A, pp. 17-20. A Notice of Overissuance dated March 20, 2024, alleged Petitioner received \$1,887 in over-issued FAP benefits from April 2018 through February 2019 due to client error.¹ Exhibit A, pp. 4-10. A second Notice of Overissuance dated March 20, 2024, alleged that Petitioner received \$2,200 in SDA benefits from April 2018 through February 2019 due to client-error.² Exhibit A, pp. 11-16

An overissuance (OI) is the benefits issued to a client group in excess of what it was eligible to receive. BAM 700 (October 2018) pp. 1-2. When a client group receives more benefits than it is entitled to receive, MDHHS must attempt to recoup the OI. *Id.* Recoupment is an MDHHS action to identify and recover a benefit OI. *Id.* A claim is the resulting debt created from an OI of benefits. *Id.*

¹ MDHHS originally sought a FAP-OI of \$2,211 for an OI period through April 2019. Exhibit A, pp. 27-32. MDHHS reduced the OI amount and shortened the OI period after Petitioner reported that her wages ended in February 2019. Exhibit A, p. 101.

² MDHHS originally sought an SDA-OI of \$2,600 for an OI period through April 2019. Exhibit A, pp. 27-32. MDHHS reduced the OI amount and shortened the OI period after Petitioner reported that her wages ended in February 2019. Exhibit A, pp. 21-26.

Federal regulations refer to OIs of FAP benefits as “recipient claims” and mandate states to collect them. 7 CFR 273.18(a). Recipient claim amounts not caused by trafficking are calculated by determining the correct amount of benefits for each month there was an OI and subtracting the correct issuance from the actual issuance.³ 7 CFR 273.18(c)(1).

The types of recipient claims are those caused by agency error, unintentional client error, and IPV. 7 CFR 273.18(b). MDHHS may pursue FAP-related client errors when they exceed \$250. BAM 715 (October 2017) p. 7.

For client errors, the OI period begins the first month when the benefit issuance exceeds the amount allowed by policy; however, state agencies may not pursue amounts more than 72 months before becoming aware of the overpayment. 7 CFR 273.18(c)(i). MDHHS sent Petitioner Notices of Overissuance in March 2023. Accepting the mailing date as the date of MDHHS’s awareness, MDHHS is not barred by timeliness from pursuing a claim against Petitioner for an OI period beginning April 2018.

MDHHS specifically alleged that Petitioner received an OI due to failing to report self-employment wages from a catering business. MDHHS’s allegation was consistent with Petitioner’s tax records from 2018 which reported \$[REDACTED] in self-employment earnings. Exhibit A, pp. 102-144. Furthermore, Petitioner applied for SSI benefits from the Social Security Administration on January 9, 2019, and reported ongoing annual earnings of \$12,500. Exhibit A, pp. 175-177. Petitioner reported to MDHHS that her earnings continued until February 15, 2019. Exhibit A, p. 101.

MDHHS alleged the OI was caused by Petitioner’s failure to timely report income. Federal regulations require change reporters to report income within 10 days after the income begins. 7 CFR 273.12(a)(2). Generally, change reporters are those without reported employment income during the benefit period.⁴ MDHHS adopted the federal regulations in its policy. BAM 105 (January 2020) p. 7.

Petitioner’s Redetermination form dated August 16, 2018, reported to MDHHS no ongoing self-employment income. Exhibit A, pp. 153-160. There was no evidence that MDHHS budgeted employment income during or immediately before the alleged OI period. The evidence established that Petitioner was a change reporter and required to report to MDHHS the beginning of self-employment income.

MDHHS presented SDA-OI and FAP-OI budgets from April 2018 through February 2019 demonstrating how a FAP-OI was calculated. Exhibit A, pp. 39-94. Actual FAP issuances

³ Additionally, MDHHS is to subtract any benefits that were expunged (i.e., unused benefits which eventually expire from non-use). There was no evidence that any of the benefits issued to Petitioner were expunged.

⁴ Simplified reporters, as opposed to change reporters, need only report when household income exceeds the simplified reporting income limit. Simplified reporters have employment income budgeted during the benefit period.

totaling \$2,112 and SDA issuances totaling \$2,200 were factored based on documentation of Petitioner's past issuances. Exhibit A, pp. 96-100. An overpayment analyst credibly testified that the only change from original FAP and SDA budgets was the inclusion of Petitioner's monthly self-employment wages. In determining monthly income, MDHHS divided Petitioner's tax return income of \$ [REDACTED] and divided by 12 resulting in a monthly income of \$ [REDACTED] (dropping cents). MDHHS also applied a standard 25% credit for self-employment income resulting in a countable monthly income of \$779 (see BEM 502). Using the procedures in BEM 556 for calculating FAP benefits, an OI of \$1,887 was calculated. Using the procedures in BEM 520 for calculating SDA eligibility, an OI of \$2,200 was calculated. Petitioner did not dispute any budget specifics.

The FAP-OI budgets factored Petitioner's income as unreported, thereby depriving Petitioner of a 20% credit for timely reported income. To support Petitioner's alleged failure to timely report income, MDHHS presented a Redetermination form dated August 6, 2018, from Petitioner which reported no wages. Exhibit A, pp. 153-160. As of August 2018, Petitioner was receiving ongoing wages from catering. Petitioner also reported having no wages on a Redetermination form she signed on February 15, 2019. Exhibit A, pp. 145-152. Though Petitioner testified she reported to MDHHS having self-employment income, her written statements to MDHHS indicate otherwise.

The evidence established that Petitioner did not timely report self-employment income to MDHHS. Thus, MDHHS properly deprived Petitioner of a 20% budget credit for timely reporting wages. MDHHS also properly assigned fault of the OI to Petitioner.

The evidence established that Petitioner received \$1,887 in over-issued FAP benefits and \$2,200 in over-issued SDA benefits from April 2018 through February 2019 due to a failure to timely report wages. Thus, MDHHS established claims against Petitioner for \$1,887 and \$2,200 due to client error.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS established against Petitioner respective claims of \$1,887 and \$2,200 for over-issued FAP and SDA benefits from April 2018 through February 2019 due to client error. The MDHHS action to establish against Petitioner FAP and SDA claims is **AFFIRMED**.

CG/nr



Christian Gardocki
Administrative Law Judge

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
Keisha Koger-Roper
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Interested Parties
Wayne 31 County DHHS
MDHHS Recoupment
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