



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: July 26, 2024  
MOAHR Docket No.: 24-005938  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**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 July 16, 2024, via teleconference. Petitioner appeared and represented herself. Eugene Brown, Overpayment Analyst, appeared on behalf of the Michigan Department of Health and Human Services (MDHHS or Department). MDHHS' Hearing Packet was admitted at the hearing as MDHHS Exhibit A, pp. 1-142.

### **ISSUES**

1. Did MDHHS properly determine that Petitioner received a Food Assistance Program (FAP) overissuance (OI) in the amount of \$774.00 based on client error (CE)?
2. Did MDHHS properly determine that Petitioner received a FAP OI of \$281.00 based on agency error (AE)?

### **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 19, 2022, MDHHS sent Petitioner a Notice of Case Action, indicating that she was approved for FAP benefits at a rate of \$281.00 per month, effective, beginning January 1, 2023 (Exhibit A, p. 35). The FAP budget was based on \$849.00 in unearned income (Exhibit A, p. 36). The notice included language stating that FAP beneficiaries must report changes that may affect benefit levels to MDHHS within ten days (Exhibit A, p. 39).

3. On [REDACTED], 2022, Petitioner submitted a Redetermination for FAP, reporting no child support income (Exhibit A, pp. 30-34).
4. From July 2023 to September 2023, Petitioner received \$ [REDACTED] per month in child support income (Exhibit A, p. 69).
5. On August 21, 2023, MDHHS sent Petitioner a New Hire Client Notice requesting verification of [REDACTED] (Daughter) employment at [REDACTED] [REDACTED] (Employer) (Exhibit A, p. 43). The New Hire Client Notice was due to MDHHS by August 31, 2023 (Exhibit A, p. 43).
6. On October 10, 2023, MDHHS sent Petitioner a Notice of Case Action, indicating that Petitioner's FAP case was closed, effective November 1, 2023 ongoing, because a verification of loss of employment was not returned (Exhibit A, pp. 50-51).
7. On October 12, 2023, MDHHS sent Petitioner a Notice of Case Action, indicating that Petitioner's FAP benefit rate decreased, effective November 1, 2023 ongoing, (Exhibit A, pp. 55-56). The notice indicated that a household member was removed from the group and the budget was based on \$990.00 in unearned income (Exhibit A, p. 56).
8. On [REDACTED], 2023, Petitioner submitted a Renewal for Medicaid (MA) benefits (Exhibit A, p. 62). Petitioner reported receiving \$ [REDACTED] per month in child support income, in addition to \$ [REDACTED] in Retirement, Survivors, and Disability Insurance (RSDI) income (Exhibit A, p. 64).
9. On December 4, 2023, MDHHS sent Petitioner a Notice of Case Action, indicating that she was approved for FAP benefits from August 1, 2023 to November 30, 2024 at varying benefit rates (Exhibit A, p. 70). The budget was based on \$1,237.00 in unearned income (Exhibit A, p. 56).
10. On March 25, 2024, MDHHS sent Petitioner a Notice of Overissuance indicating that she was issued more FAP benefits than she was entitled to receive due to a client error (CE) (Exhibit A, p. 9). The Notice specified that Petitioner was overissued \$774.00 in FAP benefits from April 1, 2023 to September 30, 2023 based on CE due to a failure to report child support income (Exhibit A, p. 9).
11. On March 25, 2024, MDHHS sent Petitioner a Notice of Overissuance indicating that she was issued more FAP benefits than she was entitled to receive due to an Agency Error (AE) (Exhibit A, p. 80). The Notice specified that Petitioner was overissued \$281.00 in FAP benefits from October 1, 2023 to October 31, 2023 based on AE due to MDHHS failing to address the failure to return the new hire notice (Exhibit A, p. 80).
12. On April 1, 2024, Petitioner filed a request for hearing to dispute MDHHS' decisions regarding the FAP OIs (Exhibit A, pp. 5-6).

## 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).

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 alleged that Petitioner received a FAP OI in the amount of \$774.00 due to client error (CE) for the period of April 1, 2023 to September 30, 2023, and that she received a FAP OI in the amount of \$281.00 due to agency error (AE) for the period of October 1, 2023 to October 31, 2023.

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 715 (October 2017), p. 6; BAM 705 (October 2018), p. 6. An OI can be caused by CE, AE, or an intentional program violation (IPV). BAM 700, pp. 5-9. An AE is caused by incorrect action by MDHHS staff or Department processes. BEM 700, p. 5. AEs are not pursued if less than \$250.00 per program. *Id.* Conversely, a CE occurs when the OI was due to the client giving incorrect or incomplete information to MDHHS. BEM 700, p. 7.

Regarding the CE, MDHHS alleged that Petitioner failed to report receiving child support income to MDHHS in a timely manner. Petitioner testified that the child support income was not consistent, and that she reported it to MDHHS when payments resumed. The record shows that Petitioner received child support from February 2023 to May 2023, did not receive child support in June 2023 and then resumed receiving child support income from July 2023 to December 2023 (Exhibit A, p. 29). Petitioner did not report receiving child support income on the December 28, 2022 Redetermination; however, it is unclear from the record if she was receiving child support income at that time. Petitioner did not provide specifics about how or when she reported the income to MDHHS and MDHHS had no record that she reported that the child support payments had resumed to the Department.

Based on a review of the record, MDHHS has presented sufficient evidence to show that Petitioner committed an error by failing to report the child support income in a timely manner. MDHHS submitted OI budgets, which recalculated Petitioner's FAP benefit rate after adding in the child support income (Exhibit A, pp. 19-25). MDHHS determined that Petitioner received \$843.00 in FAP benefits during April, May and September 2023, when

she was eligible to receive \$69.00 (Exhibit A, p. 19). Subtracting \$69.00 from \$843.00 equals an OI of \$774.00.

Regarding the AE, MDHHS alleged that Petitioner was overissued benefits because it should have closed her case when she failed to return the New Hire Client Notice form by the deadline of August 31, 2023 (Exhibit A, p. 43). The record shows that MDHHS sent Petitioner a New Hire Notice form on August 21, 2023 regarding Daughter's income. Petitioner denied receiving the form. Additionally, Petitioner questioned why the form was necessary because Daughter was not part of her FAP group. The Notices of Case Action confirm that Petitioner had a group-size of one. MDHHS did not present an adequate justification regarding why it needed to verify Daughter's income in order to process Petitioner's eligibility for FAP. MDHHS did not show that the documentation was necessary, nor did it show that it should have closed her case based on not receiving the verification. MDHHS did not submit sufficient evidence to show that Petitioner was over the income limit for FAP in October 2023 based on AE or otherwise ineligible for FAP, as alleged on the Notice of OI (Exhibit A, p. 80).

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 MDHHS acted in accordance with Department policy when it determined that Petitioner received an OI of FAP benefits based on CE, but failed to satisfy its burden of showing that it acted in accordance with Department policy when determining that Petitioner received an OI based on AE.

### **DECISION AND ORDER**

Accordingly, MDHHS' decision is **AFFIRMED IN PART** with respect to the CE of \$774.00 and **REVERSED IN PART** with respect to AE. MDHHS IS ORDERED to delete the OI of \$281.00 based on AE and cease any recoupment/collection action.

LJ/pt

  
**Linda Jordan**  
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**  
Ashley Warner  
Missaukee/Wexford County DHHS  
10641 W. Watergate Rd.  
Cadillac, MI 49601  
**MDHHS-GR8North-Hearings@michigan.gov**

**DHHS Department Rep.**  
Overpayment Establishment Section (OES)  
235 S Grand Ave Ste 811  
Lansing, MI 48909  
**MDHHS-RECOUPMENT-HEARINGS@Michigan.gov**

**Interested Parties**  
Missaukee/Wexford County DHHS  
MDHHS Recoupment  
MOAHR

**Via-First Class Mail:**

**Petitioner**  
[REDACTED]  
[REDACTED]  
[REDACTED] MI [REDACTED]