



GRETCHEN WHITMER
GOVERNOR

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

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DIRECTOR

[REDACTED]
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[REDACTED], MI [REDACTED]

Date Mailed: June 28, 2024
MOAHR Docket No.: 24-005940
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 June 26, 2024. Petitioner participated and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Julie Luczak, overpayment establishment analyst.

ISSUES

The issue is whether MDHHS established against Petitioner a recipient claim for 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 [REDACTED] [REDACTED] 2018, Petitioner applied for FAP benefits and reported having no ongoing employment income.
2. On September 18, 2024, MDHHS approved Petitioner for FAP benefits based on Petitioner having no employment income.
3. From January 11, 2019, through at least June 2019, Petitioner began receiving wages from [REDACTED] [REDACTED] [REDACTED] (hereinafter, "Employer").

4. From March through June 2019, MDHHS issued \$1,412 in FAP benefits to Petitioner based on \$█ wages.
5. As of May 22, 2019, Petitioner had not reported wages from Employer to MDHHS.
6. On May 23, 2019, as part of a redetermination, Petitioner submitted to MDHHS check stubs from Employer.
7. On May 28, 2019, MDHHS referred Petitioner's case to the recoupment unit.
8. On March 15, 2024, MDHHS calculated that Petitioner received \$1,412 in over-issued FAP benefits from March through June 2019 due to Petitioner's failure to timely report wages from Employer.
9. On March 15, 2024, MDHHS mailed Petitioner a Notice of Overissuance stating Petitioner received \$1,412 in over-issued FAP benefits from March through June 2019 due to client error.
10. On May 3, 2024, Petitioner requested a hearing to dispute the alleged OI of FAP 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 a recipient claim for allegedly over-issued FAP benefits. Exhibit A, pp. 4-6. A Notice of Overissuance dated March 15, 2024, alleged Petitioner received \$1,412 in over-issued FAP benefits from March through June 2019 due to client error. Exhibit A, pp. 8-13. MDHHS specifically alleged that Petitioner's failure to timely report wages from Employer caused the alleged OI.

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.*

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.¹ 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 a Notice of Overissuance in March 2024. Accepting the Notice of Overissuance 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 March 2019.²

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.³ MDHHS adopted the federal regulations in its policy. BAM 105 (January 2015) p. 7.

On an application dated August 27, 2018, Petitioner reported a recent loss of employment and no ongoing employment income. Exhibit A, pp. 30-35. There was no evidence that MDHHS budgeted employment income for any of Petitioner's benefit group members from the application date through the end of the alleged OI period.⁴ Given the evidence, Petitioner was a change reporter, and therefore, obligated to report to MDHHS the start of employment income within 10 days.

MDHHS presented FAP-OI budgets from March through June 2019 demonstrating how an OI was calculated. Exhibit A, pp. 15-23. Actual issuances totaling \$1,418 were taken from documentation listing Petitioner's past issuances. Exhibit A, p. 14. Presumably, the only change from original budgets was the inclusion of Petitioner's actual gross income from Employer. Documents from Employer listed wages for Petitioner from January 11, 2019, through at least June 2019. Exhibit, pp. 25-29. Using the procedures in BEM 556 for calculating FAP benefits, an OI of \$1,412 was calculated.

¹ 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.

² Arguably, MDHHS's awareness occurred in May 2019, when Petitioner's case was referred to the recoupment unit. Exhibit A, p. 52.

³ Simplified reporters, as opposed to change reporters, need only report when household income exceeds the simplified reporting income limit. Simplified reporters are persons who had employment income budgeted during the benefit period.

⁴ A Notice of Case Action dated September 18, 2024, was also consistent with Petitioner being a change reporter as a budget summary within the notice listed no wages for Petitioner. Exhibit A, pp. 36-39.

The FAP-OI budgets factored Petitioner's wages from Employer as unreported, thereby depriving Petitioner of a 20% credit for timely reported income. To justify denying the credit, MDHHS must establish that Petitioner failed to timely report income.

It was not disputed that Petitioner submitted check stubs from Employer on May 23, 2019, as a part of a benefit redetermination. Exhibit A, pp. 40-45. MDHHS credibly testified that Petitioner's electronic case file listed no documents from Petitioner before May 23, 2019 suggesting a reporting of wages from Employer. MDHHS also credibly testified that a check of comments by MDHHS staff did not document a reporting of income by Petitioner before May 23, 2019.

Petitioner testified that she dropped-off wage documents from Employer to her local MDHHS office in January 2019. Petitioner also testified she has a good memory and remembers submitting the documents in a manilla envelope. Petitioner's testimony acknowledged she was surprised when her ongoing FAP eligibility remained unchanged despite her reporting of increased income. Generally, clients are aware that FAP benefits increase when income decreases are reporting; similarly, clients are also aware that benefits decrease when income increases are reported. Petitioner's testimony is less credible after Petitioner acknowledged not following up with MDHHS to ensure that her wage documents were received when her FAP eligibility did not decrease for several months.

The evidence established that Petitioner failed to timely report income from Employer. Thus, MDHHS properly deprived Petitioner of a 20% budget credit due to untimely reported income. MDHHS also properly factored the cause of the OI to be client error.

The evidence established that Petitioner received \$1,412 in over-issued FAP benefits from March through June 2019 due to Petitioner's failure to timely report wages. Thus, MDHHS established a recipient claim against Petitioner for \$1,412 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 a \$1,412 claim for FAP benefits over-issued from March through June 2019 due to client error. The MDHHS action to establish against Petitioner a recipient claim 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 :

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Interested Parties
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