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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

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Date Mailed: July 26, 2024
MOAHR Docket No.: 24-005966
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 July 26, 2024, via teleconference. Petitioner appeared and represented herself. Minnie Egbunu, Overpayment Establishment 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. 1-49.

ISSUE

Did MDHHS properly determine that Petitioner received a Food Assistance Program (FAP) overissuance (OI) in the amount of \$1,236.00 based on 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 on behalf of herself and her daughter (Daughter).
2. On August 24, 2020, MDHHS sent Petitioner a Notice of Case Action indicating that she was approved for FAP benefits for a household of two, which included Daughter (Exhibit A, p. 31).
3. On May 14, 2024, MDHHS sent Petitioner a Notice of Overissuance indicating that she was overissued FAP benefits in the amount of \$1,236.00 from November 1, 2020 to May 31, 2021 due to client error (Exhibit A, p. 8). Specifically, the notice indicated that Petitioner failed to report when Daughter left the home and that ██████████

██████████ was granted guardianship of Daughter on September 3, 2020 (Exhibit A, pp. 8, 30).

4. On May 23, 2024, Petitioner requested a hearing regarding the FAP 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. 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 due to client error. Specifically, MDHHS alleged that Petitioner failed to report that Daughter was no longer in her household, which was evidenced by guardianship paperwork appointing Petitioner's mother as Daughter's legal guardian. Petitioner disputed MDHHS' allegation.

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 (October 2017), 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.

MDHHS presented evidence that Petitioner's mother was appointed legal guardian of Daughter on September 3, 2020 (Exhibit A, p. 30). MDHHS argued that Petitioner failed to report his change to MDHHS, which caused Petitioner to continue receiving FAP benefits for a household of two, when she was only entitled to receive FAP benefits for a household of one. MDHHS alleged that this error constituted a client error, and that Petitioner was overissued \$1,236.00 in FAP benefits.

At the hearing, Petitioner did not dispute that Daughter was no longer living in her household as of September 3, 2020. However, she credibly testified that she informed MDHHS that Daughter was living with her mother on several occasions. Petitioner

testified that she informed her caseworker that Daughter was no longer living with her immediately after the court date and that her caseworker told her that Daughter would be removed from the FAP group.

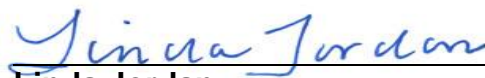
MDHHS did not introduce Case Comments or other evidence to refute Petitioner's credible testimony. MDHHS is required to act on reported changes in a timely manner, pursuant to Department policy. Given the circumstances of this case, MDHHS has not established that the OI is based on a client error, rather than an agency error. Petitioner is advised that MDHHS can pursue OIs based on agency error as well.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it determined that Petitioner received an OI of FAP benefits based on client error.

DECISION AND ORDER

Accordingly, MDHHS's decision is **REVERSED** because MDHHS failed to establish that Petitioner received a FAP OI of \$1,236.00 due to client error. **IT IS ORDERED** that MDHHS delete the FAP OI in its entirety 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
Jerica Hall
Montcalm County DHHS
609 North State Street
Stanton, MI 48888
MDHHS-Montcalm-Hearings@michigan.gov

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

Interested Parties
BSC3
M Holden
B Cabanaw
N Denson-Sogbaka
MOAHR

Via-First Class Mail:

Petitioner
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