



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

██████████
██████████
██████ MI ██████

Date Mailed: July 17, 2024
MOAHR Docket No.: 24-006063
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 11, 2024, via teleconference. Petitioner appeared and represented herself. Jason Morris, 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. 1-42.

ISSUE

Did MDHHS properly determine that Petitioner received a Food Assistance Program (FAP) overissuance (OI) in the amount of \$696.00 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.
2. On July 23, 2019, MDHHS sent Petitioner a Notice of Case Action indicating that she was approved for FAP benefits for a household of four, beginning July 9, 2019 (Exhibit A, p. 31). The FAP benefit rate was based on no earned income (Exhibit A, p. 32).
3. From February 1, 2020 to March 31, 2020, Petitioner received \$696.00 in FAP benefits (Exhibit A, p. 14).
4. From December 13, 2019 until at least March 20, 2020, ██████████ (Spouse) received earned income from ██████████ (Employer) (Exhibit A, p. 21).

5. On February 21, 2024, MDHHS sent Petitioner a Notice of Overissuance indicating that she was overissued FAP benefits in the amount of \$696.00 from February 1, 2020 to March 31, 2020 due to client error (Exhibit A, p. 8). Specifically, the notice indicated that Petitioner failed to report Spouse's income from Employer timely (Exhibit A, p. 8).
6. On May 21, 2024, Petitioner filed a hearing request disputing the FAP OI (Exhibit A, p. 7).

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 Spouse's income at Employer in a timely manner. Petitioner disputed this 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 introduced evidence that Spouse began working at Employer in [REDACTED] 2019, receiving his first paycheck on [REDACTED] 2019 (Exhibit A, p. 21). Spouse received income from Employer from [REDACTED], 2019 to [REDACTED] 2020 (Exhibit A, p. 21). MDHHS alleged that Petitioner did not report this income in a timely manner, leading to a FAP OI. Clients must report changes in circumstance that potentially affect eligibility or benefit amount. BAM 105 (October 2019), p. 12. Changes must be reported within 10 days of receiving the first payment reflecting the change. *Id.*

At the hearing, Petitioner credibly testified that she had an annual review for benefit programs in ██████████ 2019; however, she missed the telephone interview. Subsequently, in ██████████ 2019, she went into the MDHHS local office and met with her caseworker in person. She testified that she informed MDHHS of Spouse's employment at that time and gave her caseworker his first paystub. Petitioner testified that the caseworker assured her that she did not need to do anything further to verify the income.

MDHHS denied having knowledge of this in-person meeting and submitted case comments to show that there was no record of the meeting (Exhibit A, p. 40). However, the lack of an entry in Petitioner's case comments is insufficient to rebut Petitioner's credible testimony regarding her actions. Based on Petitioner's testimony, she properly reported the income to MDHHS. After reporting a change, MDHHS is required to process the change pursuant to Department policies. Thus, MDHHS failed to establish that the OI was caused by client error. Petitioner is advised that MDHHS can also pursue OIs based on 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 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' decision is **REVERSED** because MDHHS failed to establish that Petitioner received a FAP OI 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

Amber Gibson
Ingham County DHHS
5303 South Cedar
Lansing, MI 48911

MDHHS-Ingham-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

Ingham County DHHS
MDHHS Recoupment
MOAHR

Via-First Class Mail:

Petitioner

██████████
██████████
██████ MI ████████