



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

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Date Mailed: July 26, 2024
MOAHR Docket No.: 24-006857
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. Julie Barr, 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. 1-78.

ISSUE

Did MDHHS properly determine that Petitioner received an overissuance (OI) of Food Assistance Program (FAP) benefits in the amount of \$1,161.00 due to an agency 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 September 3, 2020, Petitioner began working at [REDACTED] (Employer), receiving her first paycheck on [REDACTED], 2020 (Exhibit A, p. 18). Petitioner returned an Earnings Request form to MDHHS detailing her wages (Exhibit A, p. 17).
3. On December 4, 2020, MDHHS sent Petitioner a Notice of Case Action, indicating that her FAP benefits decreased, effective December 1, 2020 (Exhibit A, pp. 39-40). The decrease was due to a change in household income (Exhibit A, p. 40).

4. On May 2, 2024, MDHHS sent Petitioner a Notice of Overissuance stating that Petitioner received an OI of FAP benefits in the amount of \$1,203.00 from April 1, 2021 to July 31, 2021 (alleged OI period) due to an agency error (Exhibit A, p. 72). The notice indicated that Petitioner exceeded the Simplified Reporting (SR) limit in April 2021 and July 2021, but that MDHHS did not properly inform Petitioner of her reporting responsibilities as a Simplified Reporter (Exhibit A, p. 72). At the hearing, MDHHS amended the request to decrease the amount of the OI to \$1,161.00 to account for pandemic-era recoupment policies. Petitioner did not object to MDHHS' request.
5. On May 15, 2024, Petitioner submitted a hearing request to dispute MDHHS' determination regarding the alleged FAP OI (Exhibit A, pp. 6-7).

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 an agency error because it failed to properly inform her of her responsibilities as a FAP group in the Simplified Reporting (SR) category. SR groups are FAP households with countable earnings who are only required to report changes in income when the group's actual gross monthly income exceeds the income limit for their group-size. BAM 200 (January 2021), p. 1. No other change reporting is required. *Id.* If the client group experiences an increase in income, the group must calculate their total gross income at the end of the month, and if the gross income exceeds the group's SR income limit, they must report the change to MDHHS by the tenth day of the following month. *Id.*; RFT 250. Once designated as a SR group, the group remains an SR group throughout the current benefit period unless they report changes that would make them ineligible for SR. BAM 200, p. 1.

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, p. 8; BAM 715 (October 2017), p. 6. An OI can be caused by client error, agency error, or an intentional program violation. 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.

Here, MDHHS acknowledged that Petitioner properly reported beginning employment at Employer. Once Petitioner's household had countable earnings, MDHHS determined that Petitioner's FAP group should be in the SR category. However, MDHHS did not inform Petitioner regarding her reporting responsibilities, including the income limit for groups in the SR category. Petitioner did not report exceeding the SR limit for her group size in April and July 2021, which led to an OI of benefits.

As stated above, MDHHS is required to attempt to recoup an OI caused by agency errors when the OI is \$250.00 or more. MDHHS introduced OI budgets which recalculated Petitioner's FAP eligibility after adding in the income from Employer and determined that Petitioner's FAP group was not eligible for any FAP benefits in the months of April 2021 and July 2021 (Exhibit A, pp. 56-59). During this time period, Petitioner received \$1,203.00 in FAP benefits (Exhibit A, pp. 37-38). This amount included supplemental benefits due to the COVID-19 Public Health Emergency.

From January 1, 2021 to September 30, 2021, FAP recipients became eligible for a 15% benefit increase in addition to their monthly allotment and the EA, pursuant to the 2021 Consolidated Appropriations Act, P.L. 116-260 (Appropriations Act), and extended by the American Rescue Plan, P.L. 117-2. Under Section 702(b)(4) of the Appropriations Act, the 15% benefit increase is not subject to recoupment. When requesting recoupment of FAP benefits from January 1, 2021 to September 30, 2021, MDHHS is required to explain how it calculated the OI amount, less the 15% benefit increase.¹

MDHHS subtracted the 15% benefit increase from the total amount of FAP benefits that Petitioner received, which brought the OI amount to \$1,161.00 (Exhibit A, pp. 37-38). MDHHS requested to reduce the OI amount at the hearing to \$1,161.00. Petitioner did not object and MDHHS' request was granted on the record.

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 the Department acted in accordance with Department policy when it determined that Petitioner received an OI of FAP benefits based on agency error in the amount of \$1,161.00.

¹ See United States Department of Agriculture, *Supplemental Nutrition Assistance Program (SNAP), Consolidated Appropriations Act, 2021 – Questions and Answers* (February 19, 2021), available at <<https://www.fns.usda.gov/snap/provisions-consolidated-appropriations-act-2021>> (accessed July 26, 2024).

DECISION AND ORDER

Accordingly, MDHHS' decision is **AFFIRMED**. MDHHS properly determined that Petitioner received an OI of FAP benefits based on agency error, in the amount of \$1,161.00.

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

Jennifer Ives
Delta County DHHS
305 Ludington St.
Escanaba, MI 49829

MDHHS-UPSChearings@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

Delta County DHHS
MDHHS Recoupment
MOAHR

Via-First Class Mail:

Petitioner

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