



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
Date Mailed: [REDACTED]
MOAHR Docket No.: 22-001897
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Amanda M. T. Marler

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 telephone hearing was held on June 1, 2022. The Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by Mary Peterson, Recoupment Specialist.

ISSUE

Did the Department properly determine a Client Error (CE) overissuance (OI) of 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 September 24, 2021, the Department issued a Notice of Case Action to Petitioner informing her that she was eligible for FAP benefits based upon a group size of five for September 2021 in the amount of \$[REDACTED] and October 2021 through August 2022 in the amount of \$[REDACTED] with consideration of \$[REDACTED] in earned income, \$[REDACTED] in unearned income, a \$215.00 standard deduction, \$[REDACTED] in housing costs, and the \$559.00 heat and utility standard deduction (H/U).
2. The Notice of Case Action also advised Petitioner that she was a simplified reporter and needed to report household gross income which exceeded \$3,363.00 per month.

3. The FAP group included Petitioner, [REDACTED], [REDACTED], [REDACTED], and [REDACTED].
4. In September 2021, Petitioner's gross household monthly income was \$ [REDACTED] but Petitioner did not report the increased income to the Department.
5. In October 2021, Petitioner's gross household monthly income was \$ [REDACTED] and again Petitioner did not report the increased income to the Department.
6. In November 2021, Petitioner's gross household monthly income was \$ [REDACTED] and again Petitioner did not report it to the Department.
7. In December 2021, Petitioner's gross household monthly income was \$ [REDACTED] and again Petitioner did not report it to the Department.
8. In November and December 2021, the Department issued a regular \$ [REDACTED] FAP benefit to Petitioner in addition to a \$ [REDACTED] supplement provided as an emergency allotment due to the COVID-19 pandemic. Therefore, Petitioner received a total of \$ [REDACTED] per month in both November and December 2021.
9. At some point, the Department assessed an CE OI against Petitioner for November 2021 through January 2022 in the amount of \$ [REDACTED]
10. On [REDACTED] [REDACTED] 2022, a Hearing Decision was issued in Michigan Office of Administrative Hearings and Rules (MOAHR) docket number 22-000820 after a hearing was held based upon Petitioner's first request for hearing disputing the determination of an CE OI. The Department's decision of a CE OI was reversed based upon the Department's error in determining an OI for January 2022.
11. On April 13, 2022, the Department issued a new Notice of Overissuance to Petitioner indicating Petitioner had received an OI of FAP benefits totaling \$ [REDACTED] for the period November 2021 through December 2021 based upon a client error in failing to report income exceeding the simplified reporting limit.
12. On April 28, 2022, the Department received Petitioner's request for hearing disputing the determination of an CE OI indicating she should only have to pay back the amount she applied for and not the emergency allotment (EA) provided because of the COVID-19 pandemic.

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. The Department (formerly known as the Department of Human Services) 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, Petitioner disputes the determination that she received a CE OI of FAP benefits for the months of November and December 2021 in the amount of \$[REDACTED]. As discussed in Hearing Decision of MOAHR docket number 22-000820, Petitioner received a client error OI for both November and December 2021 because Petitioner failed to inform the Department about her household gross monthly income exceeding the simplified reporting limit. As a result of the decision in 22-000820, the Department adjusted Petitioner's CE OI to reflect the findings of the decision and issued a new Notice of Overissuance to Petitioner. Now, Petitioner disputes the total OI indicating that she should only be required to pay back the benefits that she applied for and not the EA supplemental payments.

Due to the COVID-19 pandemic, the federal government authorized the State of Michigan to issue EA to all FAP households, meaning that FAP households not receiving the maximum benefit for their group size would receive a supplement to bring their benefit amount to the maximum for their group size. ESA Memo 2021-50 (December 6, 2021). The State of Michigan issued EA from April 2020 to December 2021. ESA Memo 2022-02 (January 2022). COVID-19 EA were approved for every month during the OI period. In addition, beginning in May 2021, MDHHS began issuing a minimum \$95 supplement to all FAP households, including households that were already receiving the maximum allotment for their household size. ESA Memo 2021-22 (May 2021). Wrongfully-issued EA are recoupable by MDHHS if the FAP household is not eligible for any FAP benefits during the month at issue.

There is no question that FAP benefits as well as FAP EA supplements were wrongfully issued to Petitioner because Petitioner committed a CE in failing to report her gross household monthly income which was almost double the simplified reporting limit. Since the Department issued \$[REDACTED] in FAP benefits and EA supplements to Petitioner for November and December 2021 which she was not eligible to receive, the Department properly established a CE OI of \$[REDACTED].

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 had received a CE OI of \$[REDACTED].

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.

AMTM/cc



Amanda M. T. Marler
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
Amy Assante
Charlevoix County DHHS
2229 Summit Park Dr.
Petoskey, MI 49720
MDHHS-CHX-Emmet-
Hearings@michigan.gov

DHHS Department Rep.

Overpayment Research and Verification
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Lansing, MI 48909
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BSC1-HearingDecisions
M. Holden
D. Sweeney

Via-First Class Mail :

Petitioner

