



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
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[REDACTED]
[REDACTED] MI [REDACTED]

Date Mailed: September 27, 2022
MOAHR Docket No.: 22-003592
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 September 19, 2022 via teleconference. Petitioner appeared and represented herself. Tracy Upshaw, Recoupment Specialist, appeared on behalf of the Michigan Department of Health and Human Services (MDHHS or Department).

ISSUE

Did MDHHS properly determine that Petitioner received an overissuance (OI) of Food Assistance Program (FAP) benefits in the amount of \$[REDACTED] due to 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 May 20, 2021, MDHHS issued a Notice of Case Action indicating that Petitioner was approved for FAP benefits for a household of one (Exhibit A, p. 43). The FAP benefit rate was based on no earned income (Exhibit A, p. 44). The notice also advised that Petitioner was a Simplified Reporter and that she was obligated to report changes in circumstances if her monthly income exceeded \$[REDACTED] (Exhibit A, p. 45).
3. On or about September 18, 2021, Petitioner started working at the [REDACTED] (Employer) (Exhibit A, p. 33). Petitioner continued working at Employer until at least April 30, 2022 (Exhibit A, p. 35).

4. From November 1, 2021 to April 30, 2022 (alleged OI period), Petitioner received \$[REDACTED] in ongoing and supplemental FAP benefits (Exhibit A, pp. 13-14).
5. On April 6, 2022, MDHHS conducted an eligibility interview with Petitioner (Exhibit A, p. 36). Petitioner reported that she was working at Employer, that she had been working at Employer since September 2021 and that she was expected her income to end because she was about to go on maternity leave (Exhibit A, p. 40).
6. On July 13, 2022, MDHHS sent Petitioner a Notice of Overissuance indicating that Petitioner was overissued FAP benefits from November 1, 2021 to April 30, 2022 in the amount of \$[REDACTED] because Petitioner failed to timely report earned income (Exhibit A, p. 6).
7. On [REDACTED] 2022, Petitioner filed a Request for Hearing to dispute the FAP OI (Exhibit A, pp. 3-4).

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 was overissued FAP benefits in the amount of \$[REDACTED] based on Petitioner's failure to report earned income at Employer in a timely manner. Petitioner disputed MDHHS' determination.

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 (January 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 715 (October 2017), 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 or inaction 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 determined that Petitioner committed a client error by failing to report her earned income from Employer. The record shows that Petitioner began working at

Employer in September 2021 and continued working at Employer throughout the alleged OI period. MDHHS testified that it was not aware that Petitioner had this employment until it conducted an eligibility interview on April 6, 2022. Petitioner testified that she reported this income to MDHHS prior to the interview by submitting a letter to MDHHS, however, a copy of the letter is not in the record, and it is unclear when it was submitted to MDHHS.

MDHHS alleged that Petitioner was a simplified reporter and therefore, she was required to report the income if it exceeded the simplified reporting limit of \$[REDACTED]. Simplified reporting groups are FAP households with countable earnings and are required to report only when the group's actual gross monthly income exceeds the simplified reporting limit for their group size. BAM 200 (October 2021), p. 1. No other change reporting is required. *Id.* If the 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 simplified reporting income limit, the group must report the change to MDHHS by the tenth day of the following month. *Id.*; RFT 250. Once designated as a simplified reporting group, the group remains an SR group throughout the current benefit period unless they report changes that would make them ineligible for simplified reporting. BAM 200, p. 1.

The record shows that Petitioner exceeded the simplified reporting limit beginning in October 2021 (Exhibit A, p. 35). Accordingly, Petitioner was required to report the increase in income by the tenth day of November. There is no evidence that Petitioner reported her income to MDHHS at this time, which constitutes a client error.

The OI period begins the first month that the benefit issuance exceeds the amount allowed by policy, allowing time for the client reporting period, the full standard of promptness for change processing and the full negative action suspense period. BAM 715, p. 5; see also BAM 105 and 220 (November 2021).

MDHHS alleged that Petitioner's OI period was from November 1, 2021 to April 30, 2022 (Exhibit A, p. 6). However, as a simplified reporter, Petitioner was required to report exceeding the simplified reporting limit by November 10, 2021. After becoming aware of the change, MDHHS would have had ten days to act on the change. BAM 220, p. 7. The increase in income would have resulted in a negative action. Negative actions are pended and therefore, do not become effective for 12 calendar days. *Id.*, p. 13. Allowing time for change processing and the full negative action period, the OI period in this case did not start until January 1, 2021.

From January 1, 2022 through April 30, 2022, Petitioner received \$[REDACTED] in ongoing and supplemental FAP benefits. MDHHS introduced OI budgets to show that Petitioner was not eligible for any FAP benefits during that time. Therefore, Petitioner was overissued \$[REDACTED] in FAP benefits due to client error that MDHHS is entitled to recoup as a recipient claim.

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 did not act in

accordance with Department policy when it determined that Petitioner was overissued \$[REDACTED] in FAP benefits.

DECISION AND ORDER

Accordingly, MDHHS' decision is **REVERSED**.

IT IS ORDERED that MDHHS reduce the FAP OI to \$[REDACTED] and initiate recoupment/collection procedures in accordance with policy.



LJ/tm

Linda Jordan
Administrative Hearings

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

Vivian Worden
Macomb County DHHS Mt. Clemens
Dist.
44777 Gratiot
Clinton Township, MI 4036

DHHS Department Rep.

Overpayment Research and
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235 S Grand Ave
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MDHHS-RECOUPMENT-HEARINGS
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Interested Parties

M. Holden
D. Sweeney
BSC4
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Via-First Class Mail :

Petitioner

[REDACTED]
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