



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

Date Mailed: December 8, 2022
MOAHR Docket No.: 22-004732
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, telephone hearings were held on November 9, 2022 and November 30, 2022. The Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by Walita Randle, Recoupment Specialist, and Latrisha Tartt, Recoupment Specialist.

ISSUE

Did the Department properly determine both an Agency Error (AE) and Client Error (CE) overissuance (OI)?

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 FAP recipient with no reported earned income and a group size of five.
2. On December 24, 2021, Petitioner received his first paycheck from [REDACTED] (Employer 1).
3. Petitioner continued his employment with Employer 1 through at least August 2022.
4. On March 25, 2022, Petitioner's wife returned to employment with [REDACTED] (Employer 2) and continued there through at least the paycheck dated July 15, 2022.

5. On May 23, 2022, Petitioner reported his income from Employer 1 via a New Hire Client Notice and his wife's income via paystub verifications.
6. From February 2022 through May 2022 and in July 2022, the Department issued \$992.00 in regular FAP benefits in addition to a \$95.00 supplement for each month.
7. On August 16, 2022, the Department created an OI Referral based upon the unreported and then later unprocessed income.
8. On August 22, 2022, the Department issued a Notice of Overissuance to Petitioner informing him that he had received a CE OI in the amount of \$2,168.00 for the period February 2022 through May 2022 based upon his failure to report his income from Employer 1 and his wife's income from Employer 2 within ten days of the receipt of their first paycheck.
9. On the same day, the Department issued a second Notice of Overissuance to Petitioner informing him that he had received an AE OI in the amount of \$1,087.00 for July 2022 because after he reported his income, the Department failed to include the income in his FAP budget.
10. On October 3, 2022, the Department received Petitioner's request for hearing disputing the determination of an OI.

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, the Department determined that Petitioner had received a CE and AE OI of FAP based upon Petitioner's failure to timely report earned income from Employer 1 and Employer 2 and the Department's failure to process Petitioner's reported earned income into Petitioner's FAP budget. Client error (CE) OIs exist when a client gives incorrect or incomplete information to the Department. BAM 715 (October 2017), p. 1; 7 CFR 273.18(b). Agency error (AE) OIs are caused by incorrect actions, including delays or no action, by the Department. BAM 705 (October 2018), p. 1; 7 CFR 273.18(b). The Department must attempt to recoup all FAP OIs greater than \$250.00.

BAM 700 (October 2018), pp. 1, 5, 10. Policy further provides that if upon a timely hearing request, an administrative hearing decision upholds the Department's actions, the client must repay the OI. BAM 700, pp. 3-4. In CE cases, the OI period begins the first month benefit issuance exceeds the amount allowed by policy or 72 months before the date it was referred to the recoupment specialist, whichever is later. BAM 715, p. 5. The first month of the OI period is determined after application of the 10-day reporting period per BAM 105, the 10-day change processing period per BAM 220, and the 12-day negative action suspense period per BAM 220. BAM 715, p. 5. In agency error OI cases, the Department can only establish an OI for the period beginning the first month when the benefit issuance exceeds the amount allowed by policy, or the 12 months before the date the OI was referred to the Recoupment Specialist, whichever 12-month period is later. BAM 705, p. 5. Pursuant to Federal Regulations, the state must establish and collect any recipient claim amount owed because of overpayment of benefits and establish a plan for establishing, collecting, and processing of the claims. 7 CFR 273.18(a)(1-3). Furthermore, each adult member of a household is responsible for payment of claims. 7 CFR 273.18(a)(4).

In reviewing this case, Petitioner began employment and received his first paycheck on December 24, 2021 but did not report his employment to the Department until prompted by the New Hire Client Notice on May 23, 2022. In addition, Petitioner's wife started new employment and received her first paycheck on March 25, 2022, but again this was not reported until May 23, 2022. Pursuant to policy, all clients must report changes in household circumstances, including new employment income, within 10 days of receipt of the first paycheck. BAM 105 (October 2021), p. 12. Since Petitioner failed to report both of their incomes for several months and because no income was previously budgeted for their FAP case, the Department properly determined a CE OI exists.

The Department also determined that an AE OI existed because after Petitioner reported the income, the Department failed to process the reported change until August 2022. Per policy, the Department is required to process changes within 10 days of receipt of the reported change. BAM 220 (November 2021), p. 7. Furthermore, negative actions should affect the FAP case within 12 days of processing the change. BAM 220, p. 13. The benefit summary inquiry presented by the Department shows that benefits continued to be issued to Petitioner at the same rate through August 2022. Therefore, the Department correctly determined that an AE OI existed because no income was previously budgeted for Petitioner.

In support of its calculations of an OI, the Department presented OI budgets for each month of the OI period for both the AE and CE OIs. After application of the 10-day reporting, 10-day change processing, and 12-day negative action suspense period, the Department properly determined that the CE OI began February 2022. BAM 715, p. 5. In reviewing the OI budgets, the Department correctly determined that after Petitioner's and his wife's income were considered in the FAP budget, the group was over the income limit in February, April, and July of 2022. Since the group's income was greater than the income limit, Petitioner was not eligible for any benefits and received an OI of

FAP benefits. The amount of the OI is equal to the amount of benefits that Petitioner was not eligible to receive, or \$2,168.00 for the CE and \$1,087 for the AE.

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 a CE OI of \$2,168.00 for the period February 2022 through May 2022 and an AE OI of \$1,087.00 for the period June 2022 through August 2022.

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 :

Interested Parties

MDHHS-Wayne-19-Hearings
BSC4-HearingDecisions
MDHHS-Recoupment-Hearings
D. Sweeney
M. Holden
MOAHR

Via-First Class Mail :

Petitioner

[REDACTED] MI [REDACTED]