



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

Date Mailed: February 6, 2023
MOAHR Docket No.: 22-006237
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Danielle Nuccio

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 January 30, 2023. Petitioner appeared and represented herself. The Department of Health and Human Services (MDHHS) was represented by Rhonda Holland, Recoupment Specialist.

ISSUE

Did MDHHS properly determine that Petitioner received an overissuance (OI) of Food Assistance Program (FAP) benefits in the amount of \$2,395.00 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 for a group size of two.
2. In March 2022, MDHHS discovered that Petitioner had earned income from employment with [REDACTED] (Employer 1) beginning in the third quarter of 2021, and [REDACTED] (Employer 2) beginning in September 2021, that Petitioner had not reported to MDHHS (Exhibit A, p. 31).
3. On December 13, 2022, MDHHS issued a Notice of Overissuance to Petitioner informing her that MDHHS had determined that she received a Client Error Overissuance from September 1, 2021 to February 28, 2022 in the amount of \$2,395.00 (Exhibit A, pp. 8-13).
4. On December 22, 2022, MDHHS received a timely hearing request from Petitioner disputing MDHHS' recoupment of overissued FAP benefits (Exhibit A, pp. 4-7).

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 [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. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

In this case, Petitioner disputes that, due to client error, she was overissued FAP benefits that MDHHS is now attempting to recoup.

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), pp. 1-2. A client error OI occurs when the client received more benefits than they were entitled to because the client gave incorrect or incomplete information to MDHHS. BAM 700, p. 6. An agency error OI is caused by incorrect actions by MDHHS, including delayed or no action, which result in the client receiving more benefits than they were entitled to receive. BAM 700, p. 4. Here, MDHHS contends that Petitioner failed to timely report when she began employment and had earned income. Petitioner argues that her income information was the same as when she received unemployment benefits that MDHHS was aware of, so she felt she did not need to report her employment. Petitioner was a change reporter, required to report changes in income to MDHHS within 10 days. BAM 700, p. 3. Since Petitioner did not report beginning employment in September 2021, the OI is due to client error.

The amount of the OI is the benefit amount the group actually received minus the amount the group was eligible to receive. BAM 700, pp. 4-6; BAM 715 (October 2017) p. 6. The overissuance period begins the first month when benefit issuance exceeds the amount allowed by policy, or 12 months before the date the overissuance was referred to the recoupment specialist, whichever 12 month period is later. To determine the first month of the overissuance period for changes reported timely and not acted on by MDHHS, Bridges, MDHHS's internal database, allows time for the client reporting period, the full standard of promptness (SOP) for change processing, and the full negative action period. The overissuance period ends the month before the benefit is corrected. BAM 715, pp. 5-6. For income increases that result in a benefit decrease, action must be taken and notice issued to the client within the SOP of 10 days. The effective month is the first full month that begins after the negative action effective date. BEM 505 (November 2021), p. 11. Thus, MDHHS has ten days to process the change and, if it results in a decrease in benefits, it gives the client 12 days before the negative action impacts the benefits issued, also known as the "10/10/12 Rule". BAM 220

(November 2021), p. 7, 12. In this case, Petitioner began employment for Employer 1 in the third quarter of 2021. Since no employment verification was returned with a specified start date, MDHHS began the OI date by applying the 10/10/12 rule from the start of the third quarter (July 2021) to start the OI period September 1, 2021. Petitioner began employment for Employer in September 2021. Applying the 10/10/12 Rule, the OI period for this employment is November 2021. MDHHS excluded October 2021 from the OI period. MDHHS discovered Petitioner's employment in March 2022 and closed Petitioner's case effective March 1, 2022; thus, ending the OI period February 28, 2022. Therefore, MDHHS properly determined the OI period to be September 1, 2021 to February 28, 2022.

MDHHS calculated the OI total for this period by calculating what Petitioner's FAP budget would have been if her earned income from employment would have been included in the budget. MDHHS determined what Petitioner's monthly benefit amount should have been if earned income was included in her FAP budget by using the income information received from the IG-011 Wage History (Exhibit A, p. 31). This Wage History generates quarterly income from each employer. MDHHS then divides the quarterly income by 3 to determine the monthly amount. A review of the FAP OI budgets shows that MDHHS properly recalculated Petitioner's net income by including income from employment in the calculation of benefits to determine net income of \$2,395.00. The FAP net income limit for a group size of two was \$1,452.00. RFT 250 (October 2021), p. 1. Based on this net income, Petitioner would not have been eligible for FAP benefits during any of the months in the OI period due to excess net income (see Exhibit A, pp. 19-30):

- September 2021: Correct benefit amount: \$0.00
- November 2021: Correct benefit amount: \$0.00
- December 2021: Correct benefit amount: \$0.00
- January 2022: Correct benefit amount: \$0.00
- February 2022: Correct benefit amount: \$0.00

MDHHS then subtracts the Correct Benefit Amount from the Actual Benefit Amount to determine the OI amount for each month. Petitioner received \$411.00 in September 2021, \$466.00 in November 2021, and \$506.00 in December 2021, January 2022, and February 2022 (see Exhibit A, pp. 17-19). Therefore the overissuance for each month is:

- September 2021: overissuance amount: \$411.00
- November 2021: overissuance amount: \$466.00
- December 2021: overissuance amount: \$506.00
- January 2022: overissuance amount: \$506.00
- February 2022: overissuance amount: \$506.00

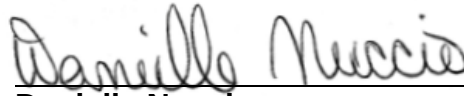
The overissuance totals to \$2,395.00. Therefore, MDHHS did properly determine the OI and is entitled to recoup this amount of overissued benefits from Petitioner.

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 MDHHS acted in accordance with Department policy when it determined Petitioner received a FAP OI totaling \$2,395.00 that MDHHS is entitled to recoup.

DECISION AND ORDER

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

DN/mp



Danielle Nuccio

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

MDHHS-Recoupment-Hearings

MDHHS-Wayne-19-Hearings

D. Sweeney

M. Holden

MOAHR

BSC4

Via-First Class Mail :

Petitioner

[REDACTED]

[REDACTED]

[REDACTED] MI [REDACTED]