



GRETCHEN WHITMER
GOVERNOR

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

MARLON I. BROWN, DPA
ACTING DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: [REDACTED]
MOAHR Docket No.: 23-003786
Agency No.: [REDACTED]
Petitioner: [REDACTED] [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 August 2, 2023. The Petitioner appeared and represented herself. The Department of Health and Human Services (MDHHS) was represented by Shari Hopson, Recoupment Specialist.

ISSUE

Did MDHHS properly determine that Petitioner had been overissued Food Assistance Program (FAP) benefits due to agency error (AE)?

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 four, consisting of her spouse, [REDACTED] [REDACTED] (Husband), two minor children, and herself.
2. Petitioner began to work for [REDACTED] [REDACTED] [REDACTED] (Petitioner Employer) in March 2010. As of November 25, 2022, Petitioner was still actively employed (Exhibit A, pp. 47-57).
3. On March 4, 2019, Husband began to work for [REDACTED] [REDACTED] [REDACTED] (Husband Employer 1), receiving his first paycheck on March 22, 2019. Husband worked for Husband Employer 1 until June 21, 2019 (Exhibit A, pp. 34-40).
4. On April 30, 2019, MDHHS issued a Notice of Case Action to Petitioner, informing her that she was approved to receive \$[REDACTED] in monthly FAP benefits for a group

size of four. MDHHS informed Petitioner that she is a simplified reporter and that the only change that she must report to MDHHS is if her household income exceeds the simplified reporting limit of \$[REDACTED] monthly (Exhibit A, pp. 68-72).

5. On June 18, 2019, Husband began to work for [REDACTED] [REDACTED] [REDACTED] (Husband Employer 2), receiving his first paycheck June 26, 2019 (Exhibit A, pp. 41-46; pp. 105-109).
6. On December 12, 2019, MDHHS issued a Notice of Case Action to Petitioner, informing her that her request to close her FAP case is approved, effective December 1, 2019 (Exhibit A, pp. 58-62).
7. On June 20, 2023, MDHHS issued a Notice of Overissuance to Petitioner informing her that she was overissued FAP benefits from May 1, 2019 through November 30, 2019 in the amount of \$[REDACTED]. The overissuance (OI) was deemed due to agency error (AE) because MDHHS failed to update that Husband's income caused the group to exceed the simplified reporting limit (Exhibit A, pp. 11-16).
8. On June 28, 2023, MDHHS received Petitioner's timely submitted hearing request to dispute that she was overissued FAP benefits that MDHHS is now attempting to recoup (Exhibit A, pp. 8-9).

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 requested a hearing disputing that she must repay FAP benefits due to MDHHS error for failing to update when Petitioner exceeded the simplified reporting limit from May 1, 2019 through November 30, 2019 (OI period), resulting in an overissuance of FAP benefits.

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. 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. 5. A client error occurs when the client received more benefits than they were entitled to because the client gave incorrect or incomplete information to the department. BAM 700, p. 7. In this case, MDHHS contends that both client error for failure to report exceeding the simplified reporting limit and agency error for failure to update when Petitioner exceeded the simplified reporting limit occurred. Since both OI error types occurred in this case, MDHHS deemed this case due to agency 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 705 (October 2018), pp. 1-6. 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. BAM 705, p. 5. Simplified reporters are only required to report when the group's actual gross monthly income (not converted) exceeds the simplified reporting limit for their group size. BAM 200 (January 2017) p. 1. The simplified reporting limit is equal to the gross income limit for the group size. BAM 200, p. 2. For a FAP group size of four, the simplified reporting limit was \$[REDACTED] during the OI period. RFT 250 (October 2018), p. 1, Column E. For failures in reporting income over the simplified reporting limit, the first month of the overissuance is two months after the actual monthly income exceeded the limit. BAM 200, p. 5-6. In this case, Petitioner failed to report that Husband's income in March 2019 caused the household to exceed the simplified reporting limit. Therefore, MDHHS properly determined that the OI period began on May 1, 2019. Petitioner requested that her FAP case be closed, effective December 1, 2019. Therefore, the OI period properly ended on November 30, 2019. MDHHS properly determined the overissuance period in this case.

MDHHS determined whether Petitioner exceeded the simplified reporting limit, and therefore received an OI of FAP benefits, by using Husband's earned income information received directly from Husband Employer 1 (see Exhibit A, pp. 34-40) and Husband Employer 2 (see Exhibit A, pp. 41-46; pp. 105-109) and Petitioner's income information from the Work Number database (see Exhibit A, pp. 47-57) and including this income information in Petitioner's FAP budget. MDHHS testified that adding the earned income information was the only changes made to Petitioner's FAP budget (see Exhibit A, pp. 20-33). MDHHS determined that had this income been included in Petitioner's household budget, the household would not have been eligible to receive FAP benefits during the OI period, with the exception of July 2019. A review of Petitioner's household income during the OI period shows that, for each month, the household had income in excess of the simplified reporting limit and gross income limit for FAP eligibility. Since Petitioner was not eligible to receive FAP benefits in May 2019, June 2019, August 2019, September 2019, October 2019, and November 2019, the benefits issued to her were overissued. Therefore, MDHHS properly determined the OI to be FAP benefits Petitioner was issued totaling \$[REDACTED]

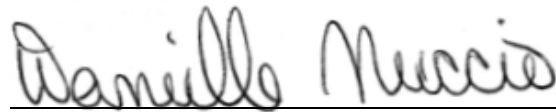
At the hearing, Petitioner expressed concerns about paying the OI amount. Individuals who do not have active benefits can pay OI balances by lump-sum or monthly cash payments. BAM 725 (October 2017), p. 9. Collection actions can also be suspended in

certain circumstances. *Id.*, pp. 13-14. Additionally, MDHHS can compromise (reduce or eliminate) an OI if it is determined that a household's economic circumstances are such that the OI cannot be paid within three years. *Id.*, p. 16. A request for a policy exception must be made from the Recoupment Specialist to the Overpayment, Research and Verification Section office outlining the facts of the situation and the client's financial hardship. *Id.* The manager of the MDHHS Overpayment, Research and Verification Section has final authorization on the determination for all compromised claims (Send to: Overpayment Recovery and State Psychiatric Hospital Reimbursement Division Overpayment Research and Verification Section Suite 1011 235 S. Grand Ave P.O. Box 30037 Lansing, MI 48909). *Id.*, pp. 16-17.

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 acted in accordance with Department policy when it determined that Petitioner received an OI of FAP benefits in the amount of \$[REDACTED] due to agency error.

DECISION AND ORDER

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



DN/dm

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
Kim Cates
Bay County DHHS
MDHHS-Bay-
Hearings@michigan.gov
DHHS Department Rep.
Overpayment Establishment Section
(OES)
MDHHS-RECOUPMENT-
HEARINGS@Michigan.gov

holdenM

sweeneyD1

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Via-First Class Mail :

MOAHR
Petitioner

[REDACTED]
[REDACTED]
[REDACTED]