



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
SUZANNE SONNEBORN
EXECUTIVE DIRECTOR

MARLON I. BROWN, DPA
DIRECTOR

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Date Mailed: September 26, 2024
MOAHR Docket No.: 24-000528
Agency No.: ██████████
Petitioner: OIG
Respondent: ██████████

ADMINISTRATIVE LAW JUDGE: Linda Jordan

HEARING DECISION

The Michigan Department of Health and Human Services (MDHHS or Department) requested a hearing alleging that Respondent ██████████ received an overissuance (OI) of FAP benefits. Pursuant to MDHHS' request and in accordance with MCL 400.9, 7 CFR 273.16, 42 CFR 431.230(b), and 45 CFR 235.110, and Mich Admin Code, R 400.3130 and R 400.3178, this matter is before the undersigned Administrative Law Judge. After due notice, a hearing was held via telephone conference on August 28, 2024. Craig Curtiss, Regulation Agent of the Office of Inspector General (OIG), represented MDHHS. Respondent did not appear at the hearing, and it was held in Respondent's absence pursuant to 7 CFR 273.16(e)(4); Mich Admin Code, R 400.3130(5); or Mich Admin Code, R 400.3178(5). MDHHS' Hearing Packet was admitted into evidence at the hearing as MDHHS Exhibit A, pp. 1-70.

ISSUE

Did Respondent receive an overissuance (OI) of Food Assistance Program (FAP) benefits that MDHHS is entitled to recoup and/or collect as a recipient claim?

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 ██████████ 2021, Respondent applied for food assistance in Michigan, reporting an address in ██████████, Michigan and reporting her daughter (Minor Child) in her household (Exhibit A, pp. 7-8).
2. From September 15, 2021 to June 23, 2022, Respondent redeemed her FAP benefits exclusively in the Sate of Arkansas (Exhibit A, pp. 55-58)

3. On [REDACTED] 2021, Respondent began residing at a domestic violence shelter in [REDACTED] (Exhibit A, p. 43). Respondent left the program on [REDACTED], 2023 (Exhibit A, p. 43). Minor Child did not reside in the domestic violence shelter with Respondent (Exhibit A, p. 43).
4. On [REDACTED] 2022, Respondent submitted a redetermination to MDHHS to renew her FAP benefits, reporting an address in [REDACTED] MI, and reporting Minor Child in her household (Exhibit A, p. 22).
5. On [REDACTED] 2022, MDHHS completed an eligibility interview with Respondent (Exhibit A, p. 34). Respondent reported no change in address and that she lived in a household with Minor Child (Exhibit A, p. 34).
6. From November 1, 2021 to June 30, 2022, Respondent received \$[REDACTED] in FAP benefits for a two-person FAP group.
7. Respondent does not have an apparent physical or mental impairment that would limit the understanding or ability to accurately report information regarding household circumstances.
8. On January 24, 2024, MDHHS' OIG filed a hearing request alleging that Respondent intentionally failed to report moving out-of-state and failed to properly report her group composition, and as a result received FAP benefits from November 1, 2021 to June 30, 2022 (alleged fraud period) that Respondent was ineligible to receive. OIG requested that Respondent repay \$1,922.00 to MDHHS for FAP benefits that Respondent was ineligible to receive. At the hearing, OIG clarified that it sought to establish the debt only because it had received a signed acknowledgment form from Respondent waiving a hearing on the disqualification issue.
9. A notice of hearing was mailed to Respondent at the last known address and was not returned by the United States Postal Service as undeliverable.

CONCLUSIONS OF LAW

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

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is funded under the federal Supplemental Nutrition Assistance Program (SNAP) established by the Food and Nutrition Act of 2008, as amended, 7 USC 2011 to 7 USC 2036a. It is implemented by the federal regulations contained in 7 CFR 273. MDHHS administers FAP pursuant to MCL 400.10 of the Social Welfare Act, MCL 400.1 *et seq.*, and Mich Admin Code, R 400.3001 to R 400.3031.

MDHHS may request a hearing to establish an intentional program violation, a disqualification or a debt. BAM 600 (March 2021) p. 5. 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), p. 1. The amount of an 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 720 (October 2017), p. 8; BAM 715 (October 2017), p. 6.

In this case, MDHHS requested a hearing to establish a debt, alleging that Respondent failed to properly report her household composition as required, which led to a FAP OI. Specifically, MDHHS alleged that Respondent moved to Arkansas without Minor Child but continued receiving FAP benefits for a household of two, which included Minor Child.

For MDHHS to determine eligibility for FAP, it must first determine the FAP group composition. To determine FAP group composition, MDHHS considers (i) who lives together; (ii) the relationships of the people who live together; (iii) whether the people living together prepared food together; and (iv) whether the person resides in a special living situation which requires the consideration of other factors. BEM 212 (October 2020), p. 1. Parents and their children under 22 years of age who live together must be in the same group regardless of whether the child(ren) have their own spouse or child who lives with the group. *Id.* Additionally, clients are required to report changes in circumstances that may affect their eligibility levels within ten days, including changes in household group composition. BAM 105 (October 2021), pp. 11-12.

MDHHS presented evidence that Respondent began living in a domestic violence shelter in Arkansas on [REDACTED], 2021, and that Minor Child did not reside in the shelter with her (Exhibit A, p. 43). Respondent redeemed her FAP benefits exclusively in Arkansas during the alleged fraud period. MDHHS presented Minor Child's school records to show that she was enrolled in [REDACTED] School, which is in Michigan, during the alleged fraud period (Exhibit A, p. 51). This documentation provides sufficient evidence to show that Respondent was residing in Arkansas and Minor Child was residing in Michigan during the alleged fraud period, and therefore, Minor Child should not have been included in Respondent's FAP group. Respondent did not appear at the hearing to provide testimony to the contrary.

Failing to report a change in group composition to MDHHS in a timely manner, constitutes a client error. MDHHS did not request to establish an intentional program violation (IPV) in this case. MDHHS is required to pursue OIs based on client error. See *generally*, BAM 715.

The record shows that Respondent received FAP benefits for a group-size of two during the alleged fraud period. MDHHS introduced FAP OI budgets which recalculated Petitioner's FAP benefit amount after removing Minor Child from the group (Exhibit A, pp. 59-68). From November 2021 to May 2022, Respondent received \$[REDACTED] per month for a household of two. After removing Minor Child from the household, MDHHS

determined that Respondent was only eligible to receive \$250 per month based on a household of one. Because Respondent received \$3,213.00 in FAP benefits from November 2021 to May 2022, when she was only eligible to receive \$1,750.00, the resulting OI for those months is \$1,463.00.

In June 2022, MDHHS removed Minor Child from the group and budgeted \$2,648.00 in earned income for Respondent. However, payroll records from this employer were not introduced into evidence at the hearing and it is not clear if the amount was properly applied to this month. The OI Budget says the pay date of the income was November 1, 2021 (Exhibit A, p. 67). Given this inconsistency and lack of evidence regarding this employment information, MDHHS has not established that it properly determined the OI amount for this month. Therefore, it is not entitled to recoup the alleged OI amount of \$459.00 from Respondent for June 2022.


Based on a review of the complete record, MDHHS is entitled to repayment from Respondent of \$1,463.00 in overissued FAP benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, concludes that Respondent did receive an OI of FAP benefits in the amount of \$1,463.00.

IT IS ORDERED that MDHHS reduce the FAP OI to \$1,463.00 and initiate recoupment/collection procedures in accordance with policy.

LJ/pt



Linda Jordan
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:

Petitioner

OIG
PO Box 30062
Lansing, MI 48909-7562
MDHHS-OIG-HEARINGS@michigan.gov

DHHS

Jennipher Wheeler
Muskegon County DHHS
2700 Baker Street
Muskegon Heights, MI 49444
MDHHS-Muskegon-Hearing@michigan.gov

Interested Parties

Muskegon County DHHS
MDHHS Recoupment
MOAHR

Via-First Class Mail:

Respondent

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