



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

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

Date Mailed: August 23, 2024
MOAHR Docket No.: 24-001991
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 August 14, 2024, via teleconference. Petitioner appeared and represented herself. Lisa Carlson, Overpayment Establishment Analyst, appeared on behalf of the Michigan Department of Health and Human Services (MDHHS or Department). MDHHS' Hearing Packet was admitted into evidence at the hearing as MDHHS Exhibit A, pp. 1-66.

ISSUE

Did MDHHS properly determine that Petitioner received an overissuance (OI) of Food Assistance Program (FAP) benefits based on 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. From June 1, 2019 to December 31, 2019, Petitioner received \$1,350.00 in FAP benefits (Exhibit A, p. 23).
3. On February 12, 2024, MDHHS sent Petitioner a Notice of Overissuance, indicating that she received more FAP benefits than she was eligible to receive from June 1, 2019 to December 31, 2019 (OI period) (Exhibit A, p. 9). The Notice indicated that the OI was due to client error because Petitioner failed to report earned income in a timely manner (Exhibit A, p. 9). The notice stated that the amount of the OI was \$1,242.00 (Exhibit A, p. 9).

4. On February 22, 2024, Petitioner filed a Request for Hearing disputing MDHHS' determination that she received an OI of FAP benefits due to client error (Exhibit A, pp. 4-5).

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 received an OI of FAP benefits based on client error, because she failed to report earned income to MDHHS in a timely manner. Clients must report changes in circumstance that potentially affect eligibility or benefit amount. BAM 105 (January 2019), pp. 11-12. Changes must be reported within ten days of receiving the first payment reflecting the change. *Id.*

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 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 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 presented evidence that Petitioner had earned income from [REDACTED] (Employer), beginning in the second quarter of 2019 (Exhibit A, p. 40). Petitioner continued to work at Employer until the first quarter of 2020 (Exhibit A, p. 39). No evidence was presented to show that Petitioner reported or attempted to report this income to MDHHS. At the hearing, Petitioner did not provide evidence or testimony to refute MDHHS' allegations. Petitioner testified that she was experiencing great personally difficulty during this time and that she believed that the debt would be forgiven based on conversations that she had with an MDHHS caseworker.

Based on the evidence presented, MDHHS has established that Petitioner committed a client error by failing to report the earned income from Employer. MDHHS introduced OI

Budgets which calculated Petitioner's FAP benefit rate after adding in the income from Employer (Exhibit A, pp. 25-38). MDHHS calculated the monthly income from Employer based on quarterly earnings because it was the best information available. Petitioner did not dispute the amounts that MDHHS calculated as earned income. Due to the income from Employer, MDHHS calculated that Petitioner was eligible to receive \$108.00 in FAP benefits during the OI period (Exhibit A, p. 24). Subtracting that amount from the amount that Petitioner actually received, which was \$1,350.00, equals \$1,242.00.

Petitioner requested information about her options in the event that the debt is established. For active programs (i.e. if Petitioner is receiving FAP benefits), FAP benefits are reduced for recoupment by a percentage of the monthly FAP entitlement or FAP benefit rate. BAM 725 (October 2017), p. 7. The reduction is 10% (or \$10, whichever is greater) for client and agency errors. *Id.* MDHHS also has the discretion to 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.*

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 was overissued \$1,242.00 in FAP benefits based on client error.

DECISION AND ORDER

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

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:

DHHS
Kim Cates
Bay County DHHS
1399 W. Center Road
Essexville, MI 48732
MDHHS-Bay-Hearings@michigan.gov

DHHS Department Rep.
Overpayment Establishment Section (OES)
235 S Grand Ave Ste 811
Lansing, MI 48909
MDHHS-RECOURPMENT-HEARINGS@Michigan.gov

Interested Parties
BSC2
M Holden
B Cabanaw
N Denson-Sogbaka
MOAHR

Via-First Class Mail:

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