



GRETCHEN WHITMER
GOVERNOR

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

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DIRECTOR

[REDACTED], MI [REDACTED]

Date Mailed: August 30, 2024
MOAHR Docket No.: 24-006966
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 via telephone conference line on August 22, 2024. Petitioner participated and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Eugene Brown, overpayment establishment analyst.

ISSUES

The issue is whether MDHHS established against Petitioner a recipient claim for Food Assistance Program (FAP) benefits.

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 [REDACTED] 2020, Petitioner applied for FAP benefits and reported having no ongoing employment income.
2. On July 8, 2020, during an application interview, MDHHS discussed reporting responsibilities with Petitioner.
3. On July 8, 2020, MDHHS approved Petitioner for FAP benefits based on Petitioner having no employment income.
4. From July 24, 2020, through at least June 2021, Petitioner received wages from Federal Express. (hereinafter, "Employer").

5. From September 2020 through June 2021, not including February and May 2021, MDHHS issued \$6,343 in FAP benefits to Petitioner based on \$█ wages from Employer.
6. On January 21, 2021, MDHHS sent Petitioner notice of ongoing FAP benefit approval based on \$█ employment income.
7. On January 25, 2021, MDHHS sent Petitioner notice of ongoing FAP benefit approval based on \$█ employment income.
8. On May 24, 2021, Petitioner reported to MDHHS having ongoing wages from Employer.
9. On June 2, 2021, MDHHS referred Petitioner's case to the recoupment unit.
10. On May 16, 2024, MDHHS calculated that Petitioner received \$6,343 in over-issued FAP benefits from September 2020 through June 2021 due to Petitioner's alleged failure to timely report wages from Employer.
11. On May 17, 2024, MDHHS mailed Petitioner a Notice of Overissuance stating Petitioner received \$6,343 in over-issued FAP benefits from September 2020 through June 2021 due to client error.
12. On June 11, 2024, Petitioner requested a hearing to dispute the alleged overissuance of FAP benefits.

CONCLUSIONS OF LAW

The 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 the FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-119b, and Mich Admin Code, R 400.3001-.3011. FAP policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing to dispute MDHHS's attempt to establish a recipient claim for allegedly over-issued FAP benefits. Exhibit A, pp. 4-5. A Notice of Overissuance dated May 17, 2024, alleged Petitioner received \$6,343 in over-issued FAP benefits from September 2020 through June 2021 due to client error.¹ Exhibit A, pp. 8-13. MDHHS specifically alleged that Petitioner's failure to timely report wages from Employer caused the OI.

¹ The OI period alleged by MDHHS did not include February and May 2021. For purposes of simplicity, the alleged OI period will be referenced as September 2020 through June 2021.

An overissuance (OI) is the benefits issued to a client group in excess of what it was eligible to receive. BAM 700 (October 2018) pp. 1-2. When a client group receives more benefits than it is entitled to receive, MDHHS must attempt to recoup the OI. *Id.* Recoupment is an MDHHS action to identify and recover a benefit OI. *Id.* A claim is the resulting debt created from an OI of benefits. *Id.*

Federal regulations refer to OIs of FAP benefits as “recipient claims” and mandate states to collect them. 7 CFR 273.18(a). Recipient claim amounts not caused by trafficking are calculated by determining the correct amount of benefits for each month there was an OI and subtracting the correct issuance from the actual issuance.² CFR 273.18(c)(1).

The types of recipient claims are those caused by agency error, unintentional client error, and IPV. 7 CFR 273.18(b). MDHHS may pursue FAP-related client errors when they exceed \$250. BAM 715 (October 2017) p. 7.

For client errors, the OI period begins the first month when the benefit issuance exceeds the amount allowed by policy; however, state agencies may not pursue amounts more than 72 months before becoming aware of the overpayment. 7 CFR 273.18(c)(i). MDHHS sent Petitioner a Notice of Overissuance in May 2024. Exhibit A, pp. 8-13. Accepting the Notice of Overissuance mailing date as the date of MDHHS’s awareness, MDHHS is not barred by timeliness from pursuing a claim against Petitioner for an OI period beginning September 2020.³

Federal regulations require change reporters to report income within 10 days after the income begins. 7 CFR 273.12(a)(2). Generally, change reporters are those without reported employment income during the benefit period.⁴ MDHHS adopted the federal regulations in its policy. BAM 105 (January 2015) p. 7.

On an application dated July 7, 2020, Petitioner reported no recent or ongoing employment income. Exhibit A, pp. 41-47. There was no evidence that MDHHS budgeted employment income for any of Petitioner’s benefit group members from the application date through the end of the alleged OI period. Given the evidence, Petitioner was a change reporter, and therefore, obligated to report to MDHHS the start of employment income within 10 days.

Petitioner should have known of the responsibility to report income changes within 10 days. MDHHS documented that reporting responsibilities were discussed with Petitioner

² Additionally, MDHHS is to subtract any benefits that were expunged (i.e., unused benefits which eventually expire from non-use). There was no evidence that any of the benefits issued to Petitioner were expunged.

³ Arguably, MDHHS’s awareness occurred in June 2021, when Petitioner’s case was referred to the recoupment unit. Exhibit A, p. 97.

⁴ Simplified reporters, as opposed to change reporters, need only report when household income exceeds the simplified reporting income limit. Simplified reporters are persons who had employment income budgeted during the benefit period.

during an interview on July 8, 2020. Exhibit A, pp. 49-50. Also, Notices of Case Action dated July 8, 2020, January 21, 2021, and January 25, 2021, each included boilerplate that Petitioner was to report any income changes to MDHHS within 10 days. Exhibit A, pp. 51-68. During the hearing, Petitioner did not deny awareness of reporting requirements.

MDHHS presented FAP-OI budgets from September 2020 through June 2021 demonstrating how an OI was calculated. Exhibit A, pp. 19-35. Actual issuances totaling \$6,343 were taken from documentation listing Petitioner's past issuances. Exhibit A, pp. 17-18. Presumably, the only change from original budgets was the inclusion of Petitioner's actual gross income from Employer. Documents from Employer listed wages for Petitioner from July 24, 2020, through at least June 2021. Exhibit, pp. 36-40. Using the procedures in BEM 556 for calculating FAP benefits, an OI of \$6,343 was calculated.

The FAP-OI budgets factored Petitioner's wages from Employer as unreported, thereby depriving Petitioner of a 20% credit for timely reported income. To justify denying the credit, MDHHS must establish that Petitioner failed to timely report income.

Petitioner submitted to MDHHS redetermination documents on May 24, 2021 reporting wages from Employer. Exhibit A, pp. 69-75. MDHHS testified this is how it learned of Petitioner's allegedly unreported wages. An overpayment analyst testified that a search of Petitioner's case file indicated no evidence of an earlier reporting. The analyst testified that the comments documented by MDHHS staff and documents submitted by Petitioner were specifically searched.

Petitioner testified he remembers placing handwritten documents about restarting employment in the lobby drop box of his local MDHHS office. Petitioner understandably did not cite a date, but he remembers doing so shortly after returning to employment with Employer in July 2020.⁵ Petitioner also testified he followed-up by calling his specialist who Petitioner testified acknowledged receipt of the documents.⁶

Petitioner's testimony acknowledged some degree of surprise after ongoing FAP benefits remained unchanged despite an alleged reporting of increased income. Generally, clients are aware that FAP benefits typically increase when income decreases; similarly, clients are also generally aware that FAP benefits decrease when income increases are reported.

MDHHS sent Petitioner multiple notices during the alleged OI period stating that a household income of \$0 was factored in FAP eligibility. Notices of Case Actions dated January 21 and January 25, 2021, each listed Petitioner's household income as \$0 as

⁵ Petitioner told the same to MDHHS when being interviewed for a FAP redetermination on June 2, 2021. Exhibit A, pp. 77-79.

⁶ Petitioner also contended that MDHHS should have asked him for the wage documents. However, Petitioner's contention was not persuasive because MDHHS would have no reason to ask for wage documents if it had no knowledge that Petitioner was working.

part of a FAP budget summary listing all relevant income and expenses. Exhibit A, pp. 59-68. Petitioner provided no explanation as to why he did not follow-up with MDHHS after the notices were sent.

Given the evidence, MDHHS established that Petitioner failed to timely report income from Employer. Thus, MDHHS properly deprived Petitioner of a 20% budget credit due to untimely reported income. Also, MDHHS also properly factored the cause of the OI to be client error.

The evidence established that Petitioner received \$6,343 in over-issued FAP benefits from September 2020 through June 2021 due to Petitioner's failure to timely report wages. Thus, MDHHS established a recipient claim against Petitioner for \$6,343 due to client error.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS established against Petitioner a \$6,343 claim for FAP benefits over-issued from September 2020 through June 2021, not counting February and May 2021, due to client error. The MDHHS action to establish against Petitioner a recipient claim is **AFFIRMED**.

CG/nr



Christian Gardocki
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

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Interested Parties

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Via-First Class Mail :

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