



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

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Date Mailed: August 23, 2024  
MOAHR Docket No.: 24-007573  
Agency No.: ██████████  
Petitioner: ██████████

**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 15, 2024, via teleconference. Petitioner appeared and represented herself. Anne Peterson, 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. 1-45.

**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. Petitioner was employed at ██████████ (Employer) (Exhibit A, p. 35). On or about On ██████████, 2023, Petitioner returned to work following maternity leave. Petitioner received her first check after returning to work on ██████████, 2023 (Exhibit A, p. 23).
3. On ██████████ 2023, Petitioner submitted a renewal for FAP (Exhibit A, p. 41). Petitioner reported “additional income” on the renewal (Exhibit A, p. 41).

4. On May 31, 2023, MDHHS sent Petitioner a Notice of Case Action indicating that she was approved for FAP benefits, beginning July 1, 2023 (Exhibit A, p. 28). The FAP benefit rate was based on unearned income (Exhibit A, p. 30). The notice included language stating that FAP beneficiaries had a responsibility to report changes in income to MDHHS within ten days (Exhibit A, p. 33).
5. From July 1, 2023 to November 30, 2023, Petitioner received \$940.00 in FAP benefits for a group-size of two (Exhibit A, p. 16).
6. On June 17, 2024, MDHHS sent Petitioner a Notice of Overissuance, indicating that she received more FAP benefits than she was eligible to receive from July 1, 2023 to November 30, 2023 (OI period) (Exhibit A, p. 9). The Notice indicated that the OI was due to client error because Petitioner did not report employment income a timely manner (Exhibit A, p. 8). The notice stated that the amount of the OI was \$855.00 (Exhibit A, p. 9).
7. On July 9, 2024, Petitioner filed a Request for Hearing disputing MDHHS' determination that she received an OI of FAP benefits due to client error (Exhibit A, p. 3).

### **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 employment income to MDHHS in a timely manner. Clients must report changes in circumstance that potentially affect eligibility or benefit amount. BAM 105 (April 2022), 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 returned to work at Employer following maternity leave, receiving the first paycheck after the return on [REDACTED], 2023 (Exhibit A, p. 37). MDHHS alleged that Petitioner failed to report this change to MDHHS within ten days and failed to specify the income change when she submitted the FAP renewal. At the hearing, Petitioner confirmed that she returned to work following maternity leave on [REDACTED] 2023, and testified that she reported her return-to-work date to MDHHS when she was on maternity leave in [REDACTED] 2024. Petitioner testified that she had six weeks of maternity leave and MDHHS knew that the return date was a fixed date.

MDHHS alleged that it could not process a future change in employment status and that Petitioner had a responsibility to report returning to work within ten days of receiving the first paycheck after the return. MDHHS' argument has merit. Petitioner had a responsibility to report the change to MDHHS after it happened, within ten days of March 10, 2023, pursuant to Department policies. Additionally, Petitioner received the Notice of Case Action after her return, which informed her that unearned income was budgeted rather than earned (Exhibit A, p. 30).

Based on the evidence presented, MDHHS has established that Petitioner committed a client error by failing to report employment income. MDHHS introduced OI Budgets which calculated Petitioner's FAP benefit rate after adding the income from Employer (Exhibit A, pp. 18-25). Due to the income from Employer, MDHHS calculated that Petitioner was eligible to receive \$85.00 in FAP benefits during the OI period (Exhibit A, p. 17). Subtracting that amount from the amount that Petitioner actually received, which was \$940.00, equals \$855.00.

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 \$855.00 in FAP benefits based on client error.

**DECISION AND ORDER**

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

LJ/pt

  
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**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**

Kimberly Kornoelje  
Kent County DHHS  
121 Martin Luther King Jr St SE  
Grand Rapids, MI 49507

**MDHHS-Kent-Hearings@michigan.gov**

**DHHS Department Rep.**

Overpayment Establishment Section (OES)  
235 S Grand Ave Ste 811  
Lansing, MI 48909

**MDHHS-RECOUPMENT-HEARINGS@Michigan.gov**

**Interested Parties**

BSC3

M Holden

B Cabanaw

N Denson-Sogbaka

**Via-First Class Mail:**

**Petitioner**

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