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GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
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Date Mailed: November 15, 2024
MOAHR Docket No.: 24-██████████
██████████ 115028179
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 November 6, 2024, via teleconference. Petitioner appeared and represented herself. Catrice Legacy, Overpayments 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. 1-51.

ISSUE

Did MDHHS properly determine that Petitioner received an overissuance (OI) of Food Assistance Program (FAP) benefits due to an agency 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. On April 1, 2024, MDHHS sent Petitioner a Notice of Case Action, terminating Petitioner’s FAP benefits, effective April 1, 2024 ongoing, due to excess income (Exhibit A, p. 36). The FAP budget was based \$ ██████████ in monthly income (Exhibit A, pp. 37).
3. On August 8, 2024, MDHHS sent Petitioner a Notice of Overissuance indicating that Petitioner was overissued FAP benefits in the amount of \$1,569.00 during the period of December 1, 2023 to March 31, 2024 (OI Period) (Exhibit A, p. 7). The notice stated that the OI was due to agency error because MDHHS did not act on available information regarding earned income for the household (Exhibit A, p. 7).

4. On July 25, 2024, Petitioner requested a hearing regarding the alleged FAP OI.

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 due to an agency error because it failed to act on employment income information for the household in a timely manner.

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 705 (October 2018), p. 6. An OI can be caused by client error, agency error, or an intentional program violation. 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.

Petitioner's household was in the Simplified Reporting (SR) category. Food assistance groups with countable earnings are assigned to the SR category. BAM 200 (January 2021), p. 1. SR groups are required to report only when the group's actual gross monthly income (not converted) exceeds the SR income limit for their group size. *Id.* No other change reporting is required. *Id.* If the group has an increase in income, the group must determine their total gross income at the end of that month. *Id.* If the total gross income exceeds the group's SR income limit, the group must report this change to their specialist by the 10th day of the following month, or the next business day if the 10th day falls on a weekend or holiday. *Id.* Once assigned to SR, the group remains in SR throughout the current benefit period unless they report changes at their semi-annual contact or redetermination that make them ineligible for SR. *Id.*

MDHHS alleged that Petitioner's household exceeded the SR limit in October 2023 due to [REDACTED] (Household Member) employment income at [REDACTED] (Employer) (Exhibit A, pp. 24-25). The record shows that Household Member received employment income from Employer from [REDACTED], 2023 until at least [REDACTED],

2024 (Exhibit A, p. 25). MDHHS alleged that although Petitioner did not report exceeding the SR limit properly, it had access to the employment income information through a new hire notice and failed to timely act on that information. Therefore, it was an agency error. MDHHS is required to pursue OIs based on agency error.

To calculate a client's FAP benefit rate, MDHHS must consider all countable earned and unearned income. BEM 500 (April 2022), pp. 1-5. MDHHS introduced FAP OI Budgets which recalculated the household's eligibility for FAP benefits after adding the employment income from Household Member (Exhibit A, pp. 14-22). MDHHS determined that the household was eligible for \$[REDACTED] in FAP benefits during the OI Period (Exhibit A, p. 14). The household received \$[REDACTED] in FAP benefits during that time. To calculate the FAP OI, MDHHS subtracted \$[REDACTED] from \$2,852.00, which equals \$1,569.00. Thus, MDHHS properly determined that Petitioner received an OI based on agency error in the amount of \$1,569.00.

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 based on agency error.

DECISION AND ORDER

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



Linda Jordan
Administrative Law Judge

LJ/pt

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

Lauren Dobbyn
Oscoda County DHHS
200 W. 5th
P.O. Box 849
Mio, MI 48647

MDHHS-Oscoda-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

BSC1
M Holden
B Cabanaw
N Denson-Sogbaka
MOAHR

Via-First Class Mail:

Petitioner

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