



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

Date Mailed: November 15, 2024

MOAHR Docket No.: 24-010315

Agency No.: [REDACTED]

Petitioner: [REDACTED]

[REDACTED]
[REDACTED] MI [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 November 6, 2024, via teleconference. Petitioner appeared and represented herself. Julie Luczak, 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. 1-106. The record was held open for 24 hours and Petitioner submitted additional documentation, which was admitted into evidence as Petitioner's Exhibit 1, pp. 1-11.

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 August 28, 2024, MDHHS sent Petitioner a Notice of Overissuance indicating that Petitioner was overissued FAP benefits in the amount of \$1,181.00 during the period of April 1, 2023 to October 31, 2023 (OI Period) (Exhibit A, p. 7). The notice stated that the OI was due to agency error because it failed to budget Petitioner's employment income and unemployment compensation benefits (UCB) (Exhibit A, p. 7).

3. On September 4, 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 properly budget Petitioner's employment and [REDACTED] income. Petitioner disputed MDHHS' budget calculations, alleging that there was a delay in receiving the [REDACTED] income and she received back pay in a lump-sum.

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.

To calculate a client's FAP benefit rate, MDHHS must consider all countable earned and unearned income. BEM 500 (April 2022), pp. 1-5. Here, MDHHS testified that Petitioner's [REDACTED] income was not properly included in the FAP budget calculation. MDHHS introduced FAP OI Budgets which added in the [REDACTED] (Exhibit A, pp. 20-33). The budget for April 2023, for example, includes \$804.10 in [REDACTED] (Exhibit A, p. 20). Petitioner disputed this amount because she did not receive [REDACTED] until [REDACTED] 2023. Petitioner introduced evidence to show that her [REDACTED] payment for [REDACTED] 2023 was paid in [REDACTED] 2023 (Exhibit 1, pp. 7-8).

Accumulated benefits refer to a one-time payment of non-MDHHS benefits issued to cover a retroactive period of time or to cover a future period of time. BPG Glossary (January 2022), p. 1. MDHHS treats lump-sums and accumulated benefits as assets in the month received. BEM 500 (April 2022), p. 7.

Here, Petitioner presented evidence that her [REDACTED] income was received in one payment in [REDACTED] 2023. Therefore, it met the definition of an accumulated benefit. Pursuant to policy, MDHHS should have treated the [REDACTED] received in [REDACTED] 2023 as an asset, rather than income. Thus, the record shows that MDHHS did not properly budget Petitioner's unearned income during the OI Period.

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 the MDHHS did not act in accordance with Department policy when it determined that Petitioner received an OI of FAP benefits in the amount of \$1,181.00 due to agency error.

DECISION AND ORDER

Accordingly, MDHHS' decision is **REVERSED** because MDHHS failed to establish that Petitioner received a FAP OI of \$1,181.00 due to agency error. **IT IS ORDERED** that MDHHS delete the FAP OI in its entirety and cease any recoupment/collection action.

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
Renee Olian
Kalamazoo County DHHS
427 E Alcott St
Kalamazoo, MI 49001
MDHHS-Kalamazoo-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
MOAHR

Via-First Class Mail:

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