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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: October 28, 2024
MOAHR Docket No.: 24-010467
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 October 15, 2024, via teleconference. Petitioner appeared and represented herself. M. Egbuonu, Overpayments Establishment Analyst, appeared on behalf of the Michigan Department of Health and Human Services (MDHHS or Department). MDHHS' proposed exhibits were admitted at the hearing as MDHHS Exhibit A, pp. 1-87 and MDHHS Exhibit B, pp. 1-108.

ISSUES

Did MDHHS properly determine that Petitioner received overissuances (OIs) 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. On [REDACTED] 2022, Petitioner submitted a FAP application, reporting employment income and child support income (Exhibit A, pp. 78-83).
3. On [REDACTED], 2022, Petitioner submitted a FAP Renewal to MDHHS, reporting that she was receiving employment income and child support income (Exhibit A, p. 69)
4. On [REDACTED] 2023, Petitioner submitted a Redetermination for FAP, reporting that she was receiving employment income and child support (Exhibit B, pp. 104-105).

5. On July 19, 2023, MDHHS sent Petitioner a Notice of Case Action indicating that she was approved for FAP benefits beginning August 1, 2024 (Exhibit B, p. 90). The FAP benefit rate was based on \$2,707.00 in earned income (Exhibit B, p. 91). The notice included language stating that Petitioner's household was in the Simplified Reporting (SR) category and that the household was only required to report changes if the group's gross monthly income exceeded the income limit of \$3,007.00 (Exhibit B, p. 48).
6. On [REDACTED], 2023, Petitioner submitted an application for State Emergency Relief benefits, reporting that she was receiving employment income and child support income (Exhibit B, pp. 83-87).
7. On [REDACTED], 2023, Petitioner submitted an application for FAP benefits (Exhibit B, p. 74). Petitioner reported that she was receiving employment income and child support income (Exhibit B, pp. 79-80).
8. On August 21, 2024, MDHHS sent Petitioner a Notice of Overissuance, indicating that she received more FAP benefits than she was eligible to receive from December 1, 2022 to May 31, 2023 due to client error (First OI Period) (Exhibit A, p. 8). The Notice indicated that the OI was due to client error because Petitioner did not report exceeding the Simplified Reporting (SR) limit (Exhibit A, p. 8). The notice stated that the amount of the OI was \$1,034.00 (Exhibit A, p. 8).
9. On August 21, 2024, MDHHS sent Petitioner a Notice of Overissuance, indicating that she received more FAP benefits than she was eligible to receive from August 1, 2023 to May 31, 2024 due to client error (Second OI Period) (Exhibit B, p. 8). The Notice indicated that the OI was due to client error because Petitioner did not report exceeding the Simplified Reporting (SR) limit (Exhibit B, p. 8). The notice stated that the amount of the OI was \$2,561.00 (Exhibit B, p. 8).
10. On September 3, 2024, Petitioner filed a Request for Hearing disputing MDHHS' determinations regarding the FAP OIs (Exhibit B, pp. 4-6).

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 alleged that Petitioner received OIs based on client error for two separate periods, from December 1, 2022 to May 31, 2023 (First OI Period) and from August 1, 2023 to May 31, 2024 (Second OI Period). MDHHS alleged that both OIs were caused by client error because Petitioner failed to properly report exceeding the Simplified Reporting (SR) limit.

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.

Respondent's FAP group was in the 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.*

Regarding the First OI Period, MDHHS alleged that Petitioner's household income exceeded the SR limit beginning in June 2022, which led to an OI of FAP benefits in December 2022, March 2023, April 2023 and May 2023 (Exhibit A, p. 9). Petitioner testified that she did not know that she was required to report when her household income exceeded the SR limit. MDHHS alleged that she was informed of her reporting responsibilities for this period; however, MDHHS failed to introduce a notice of case action at the hearing. The notice of case action for SR groups contains language instructing clients about their reporting responsibilities. Accordingly, MDHHS has not established that it properly informed Petitioner of her reporting responsibilities as a SR group during the First OI Period.

Failing to properly instruct Petitioner on her reporting responsibilities would constitute an agency error, rather than a client error. Based on the record, it is unclear whether the OI was caused by agency error or client error. Thus, MDHHS has not established that Petitioner received an OI based on client error for the First OI Period.

Regarding the Second OI Period, MDHHS alleged that Petitioner committed a client error by failing to report exceeding the SR limit. MDHHS introduced evidence that it informed Petitioner of her reporting responsibilities on the Notice of Case Action dated July 19, 2023 (Exhibit B, p. 90). The Notice of Case Action indicated that Petitioner was required to report an increase in household income if the income exceeded \$3,007.00 (Exhibit B,

p. 91). MDHHS alleged that Petitioner exceeded the SR limit beginning in June 2023 (Exhibit B, p. 14). Because Petitioner's income exceeded the SR limit, Petitioner was required to report that increase to MDHHS. Petitioner's failure to report constitutes a client error.

MDHHS introduced OI Budgets for the Second OI Period, which recalculated Petitioner's FAP benefit rate after adding in the unreported income (Exhibit B, pp. 22-40). MDHHS determined that the household was completely ineligible for FAP benefits from September 2023 through February 2024 and April 2024 through May 2024 (Exhibit B, p. 14). A review of Petitioner's Benefit Summary Inquiry shows that Petitioner received \$2,697.00 in ongoing and supplemental FAP benefits during this time (Exhibit B, pp. 16-17).

Regarding August 2023, MDHHS concluded that Petitioner was underissued \$136.00 in FAP benefits for that month (Exhibit B, p. 14). In August 2023, Petitioner received \$120.00 in ongoing FAP benefits and \$360.00 in supplemental FAP benefits, which MDHHS denoted were based on Pandemic EBT and not recoupable (Exhibit B, p. 17). The OI Budget shows that MDHHS determined that Petitioner was eligible for \$256.00 in FAP benefits for that month, rather than the \$120.00 in FAP benefits that she received, resulting in an underissuance of \$136.00 (Exhibit B, p. 22). Thus, MDHHS calculated the OI by subtracting \$136.00 from the total OI amount of \$2,697.00 to equal \$2,561.00.

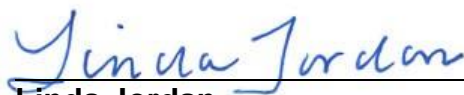
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that MDHHS acted in accordance with Department policy when it calculated the FAP OI for the Second OI Period.

DECISION AND ORDER

Accordingly, MDHHS' decision is **AFFIRMED IN PART** with respect to the establishment of the FAP OI of \$2,561.00 from August 1, 2023 to May 31, 2024 based on client error.

MDHHS' decision is **REVERSED IN PART** with respect to FAP OI of \$1,034.00 from December 1, 2022 to May 31, 2023 based on client error. **IT IS ORDERED** that MDHHS delete this 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).

