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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: October 24, 2024
MOAHR Docket No.: 24-010730
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. L. Barnett 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. 1-71.

ISSUE

Did MDHHS properly determine that Petitioner received an overissuance (OI) of Food Assistance Program (FAP) benefits in the amount of \$2,223.00 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 5, 2024, MDHHS sent Petitioner a Notice of Case Action indicating that she was approved for FAP benefits a household of three, effective March 1, 2024 ongoing (Exhibit A, p. 46). [REDACTED] (Household Member) was included in the FAP group (Exhibit A, p. 46). MDHHS did not budget any earned income (Exhibit A, p. 47).
3. On September 4, 2024, MDHHS sent Petitioner a Notice of Overissuance stating that Petitioner received an OI of FAP benefits in the amount of \$2,964.00 from May 1, 2024 to August 31, 2024 due to an agency error (Exhibit A, p. 15). MDHHS acknowledged that it made an error when calculating the OI amount and adjusted

the claim to \$2,223.00 to reflect an OI period of June 1, 2024 to August 31, 2024 (OI period) (Exhibit A, p. 21).

4. On September 12, 2024, Petitioner submitted a hearing request to dispute MDHHS' determination regarding the alleged FAP OI (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 due to an agency error because it failed to act on a reported change in household income in a timely manner. MDHHS acknowledged that Petitioner reported Household Member in the household properly, and Household Member was added to Petitioner's FAP group, effective April 1, 2024. However, Petitioner also reported that Household Member had earned income. MDHHS failed to process the change and add the additional income to the case.

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 720, p. 8; An OI can be caused by client error, agency error, or an intentional program violation. BAM 700, pp. 5-9. An agency error is caused by incorrect action by MDHHS staff or Department processes. 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 acknowledged that it did not properly process Petitioner's reported change in household income. MDHHS presented evidence that Household Member received earned income from [REDACTED] (Employer) (Exhibit A, p. 44). When MDHHS added Household Member to Petitioner's case, it did not add his earned income to the case, resulting in an OI based on agency error.

MDHHS introduced FAP OI Budgets for the OI period, which recalculated Petitioner's FAP benefit rate after adding in the earned income from Employer (Exhibit A, pp. 26-32). To calculate a client's FAP benefit rate, MDHHS must consider all countable earned and

unearned income. BEM 500 (April 2022), pp. 1-5. Earned income refers to income received from another person or organization for duties that were performed for remuneration or profit. BEM 500, p. 4. Wages from employment include salaries, tips, commission, bonuses, severance pay, and flexible benefit funds not used to purchase insurance. BEM 501 (January 2021), pp. 6-7. MDHHS added Household Member's income to the FAP budgets for the OI period and determined that the household was over the income limit for the program in the months of June, July, and August 2024. Petitioner did not dispute MDHHS' budget calculation. MDHHS properly began the OI period in June 2024 to account for change reporting policies. See *generally*, BAM 220 (November 2023).

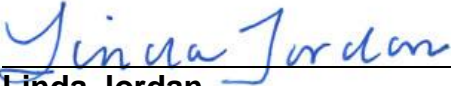
During the OI period, Petitioner's household received \$2,223.00 in FAP benefits (Exhibit A, p. 24). Due to Household Member's income, Petitioner was not eligible for any FAP benefits during that time period. Therefore, MDHHS properly determined that Petitioner received an OI of FAP benefits in the amount of \$2,223.00.

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 based on agency error.

DECISION AND ORDER

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

LJ/pt


Linda Jordan
Administrative Law Judge

