



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

[REDACTED]  
[REDACTED]  
[REDACTED], MI [REDACTED]

Date Mailed: December 27, 2024  
MOAHR Docket No.: 24-011214  
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 December 17, 2024, via teleconference. Petitioner appeared and represented herself. Household member, [REDACTED] (Spouse), also appeared on behalf of Petitioner. Jason Morris, 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 as MDHHS Exhibit A, pp. 1-176.

**ISSUE**

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. On [REDACTED] 2020, Petitioner applied for FAP for a household of six (Exhibit A, pp. 151-152). Petitioner reported employment at [REDACTED] (Employer 3) (Exhibit A, p. 156).
2. On February 7, 2020, MDHHS sent Petitioner a Notice of Case Action indicating that she was approved for FAP benefits beginning January 1, 2020, for a household of seven (Exhibit A, p. 109). The FAP benefit rate was based on earned income (Exhibit A, p. 110). The notice included language stating that Petitioner’s household was in the Simplified Reporting (SR) category and that she was only required to report changes if the group’s gross monthly income exceeded the income limit of \$4,227.00 (Exhibit A, p. 111).

3. On [REDACTED] 2020, Petitioner reported changes in employment (Exhibit A, p. 87). Petitioner reported starting employment at [REDACTED] (Employer 1) on [REDACTED] 2020, receiving the first paycheck on [REDACTED] 2020 (Exhibit A, p. 87). Petitioner also reported new employment at [REDACTED] (Employer 2) for household member, [REDACTED] (Son), starting [REDACTED] 2020 (Exhibit A, p. 87). The first date of payment from Employer 2 was [REDACTED] 2020 (Exhibit A, p. 87). Petitioner reported that employment at [REDACTED] (Employer 3) ended [REDACTED] 2020 (Exhibit A, p. 87).
4. On August 25, 2020, MDHHS sent Petitioner a Notice of Case Action indicating that she was approved for FAP benefits beginning October 1, 2020, for a household of seven (Exhibit A, p. 117). The FAP benefit rate was based on earned income (Exhibit A, p. 118). The notice did not include language regarding SR. The notices stated that FAP beneficiaries must report changes to MDHHS within ten days (Exhibit A, p. 121).
5. On [REDACTED] 2020, Petitioner submitted a renewal for FAP (Exhibit A, p. 159). Petitioner reported employment from Employer 1 (Exhibit A, p. 161). Petitioner reported that Son's employment at Employer 2 ended on [REDACTED] 2020 (Exhibit A, p. 161).
6. On December 7, 2020, MDHHS sent Petitioner a Wage Match Client Notice for Spouse's employment at [REDACTED] (Employer 6) (Exhibit A, p. 54). The wage match was returned to MDHHS on March 13, 2021, and indicated that Spouse had employment at Employer 6 from [REDACTED] 2020 to [REDACTED] 2020 (Exhibit A, p. 57).
7. On December 30, 2020, MDHHS sent Petitioner a Notice of Case Action indicating that she was approved for FAP benefits beginning January 1, 2021, for a household of seven (Exhibit A, p. 122). The FAP benefit rate was based on earned income (Exhibit A, p. 123). The notice included language stating that Petitioner's household was in the SR category and that she was only required to report changes if the group's gross monthly income exceeded the income limit of \$4,295.00 (Exhibit A, pp. 123-124).
8. On [REDACTED] 2021, Petitioner submitted a FAP application (Exhibit A, p. 163). Petitioner reported employment for Spouse at [REDACTED] (Employer 5) and that she was receiving unemployment (Exhibit A, p. 172). Petitioner indicated that Spouse was on short-term disability due to a surgery (Exhibit A, p. 173).
9. On [REDACTED] 2021, Petitioner reported changes in employment (Exhibit A, p. 90). Petitioner reported starting employment at [REDACTED] (Employer 4), receiving her first payment on [REDACTED] 2021 (Exhibit A, p. 90).

10. On September 19, 2024, MDHHS sent Petitioner a Notice of Overissuance, indicating that she received more FAP benefits than she was eligible to receive from August 1, 2020 to August 31, 2020 (Exhibit A, p. 15). The Notice indicated that the OI was due to client error because Petitioner failed to report exceeding the SR limit in a timely manner (Exhibit A, p. 15). The notice stated that the OI amount was \$1,018.00 (Exhibit A, p. 15).
11. On September 19, 2024, MDHHS sent Petitioner a Notice of Overissuance, indicating that she received more FAP benefits than she was eligible to receive from September 1, 2020 to January 31, 2021 (Exhibit A, p. 21). The Notice indicated that the OI was due to client error because Petitioner failed to report exceeding the SR limit in a timely manner (Exhibit A, p. 21). The notice stated that the OI amount was \$5,373.00 (Exhibit A, p. 15).
12. On October 1, 2024, Petitioner filed a Request for Hearing (Exhibit A, p. 8).

### **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.

MDHHS determined that Petitioner received OIs of FAP benefits based on client error, because she failed to 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.

Petitioner's FAP group 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 noted that Spouse started work at Employer 6 on [REDACTED] 2020, and that this change was not reported (Exhibit A, p. 3). However, Petitioner was only required to report this change if the income from Employer 6 made the household exceed the SR limit. MDHHS further asserted that in July 2020, Petitioner's household exceeded the SR limit for the second consecutive month (Exhibit A, p. 3). It is unclear how MDHHS calculated the total household income for the two consecutive months prior to the OI periods. It is also unclear when Petitioner was required to report. For example, if the household exceeded the SR limit in July, then she would have been required to report by August 10. However, if she exceeded the SR limit in June, then she would have been required to report by July 10.

The record shows that Petitioner reported several changes in employment by submitting change reports and by submitting applications and renewals. At the hearing, Petitioner credibly testified that she regularly reported changes in household employment to her caseworker. Petitioner reported changes in employment on [REDACTED] 2020. It is unclear whether Spouse's employment at Employer 6 was previously reported. It is also unclear whether MDHHS attempted to verify Petitioner's household income based on this change report. MDHHS is required to verify income information when required by policy and whenever a client reports a change. BAM 130 (April 2017), p. 1. If MDHHS verified the household income at this juncture, it likely would have discovered that the income exceeded the SR limit. Additionally, it is unclear why MDHHS did not act upon the wage match that it sent for Employer 6 on December 7, 2020, which was due to MDHHS on January 6, 2021 (Exhibit A, p. 54). The record shows that Petitioner did not return the wage match until March 6, 2021 (Exhibit A, p. 54).

Finally, MDHHS created confusion regarding Petitioner's reporting responsibilities. MDHHS initially informed Petitioner of her responsibilities as a SR when it sent the Notice of Case Action on February 7, 2020. However, the Notice of Case Action sent on August 25, 2020 did not include information regarding SR (Exhibit A, pp. 118-121). The FAP benefit rate on this notice was based on earned income, and therefore, it can be presumed that Petitioner's household was still in the SR category. However, the instructions on this notice indicated that Petitioner must report all changes affecting eligibility within ten days (Exhibit A, p. 121). This is inaccurate for SR groups.

Failing to properly instruct Petitioner on her reporting responsibilities would constitute an agency error, rather than a client error. Additionally, failing to properly act on reported

changes and verify income information would also constitute agency errors. For these reasons, it is unclear whether the OI was caused by agency error or client error.

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 Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it determined that Petitioner received OIs based on client error.

### **DECISION AND ORDER**

Accordingly, MDHHS' decision is **REVERSED**. MDHHS is ORDERED to delete the FAP OIs in their entirety and cease any recoupment or 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:**

**Agency Representative**

Jason Morris  
Overpayment Establishment Section (OES)  
235 S Grand Ave Ste 811  
Lansing, MI 48933  
**MDHHS-Recoupment-Hearings@michigan.gov**

**DHHS**

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**Interested Parties**

BSC3  
M Holden  
B Cabanaw  
N Denson-Sogbaka  
MOAHR

**Via-First Class Mail:**

**Petitioner**

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