



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
SUZANNE SONNEBORN
EXECUTIVE DIRECTOR

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DIRECTOR

[REDACTED]
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Date Mailed: November 22, 2024
MOAHR Docket No.: 24-011268
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 November 14, 2024, via teleconference. Petitioner appeared and represented herself. Bernice Ray, 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. 1-80.

ISSUES

1. Did MDHHS properly determine that Petitioner received an overissuance (OI) of Food Assistance Program (FAP) benefits based on client error?
2. Did MDHHS properly determine that Petitioner received an OI of FAP benefits based on 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 [REDACTED] 2022, Petitioner applied for FAP benefits (Exhibit A, p. 7).
3. On July 29, 2022, MDHHS sent Petitioner a Notice of Case Action indicating that she was approved for FAP benefits beginning July 19, 2022 (Exhibit A, p. 17). The FAP benefit rate was based on earned income (Exhibit A, p. 18). 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 \$1,888.00 (Exhibit A, p. 18).

4. On [REDACTED] 2022, Petitioner submitted a Semi-Annual Contact Report for FAP, reporting that the household income of \$ [REDACTED] had not changed by more than \$125.00 (Exhibit A, p. 25).
5. On November 23, 2022, MDHHS sent Petitioner a Notice of Case Action indicating that she was approved for FAP benefits beginning January 1, 2023 (Exhibit A, p. 27). The FAP benefit rate was based on earned income (Exhibit A, p. 28).
6. On September 17, 2024, MDHHS sent Petitioner a Notice of Overissuance, indicating that she received more FAP benefits than she was eligible to receive from October 1, 2022 to December 31, 2022 (Exhibit A, p. 68). The Notice indicated that the OI was due to client error because Petitioner failed to report exceeding the SR limit (Exhibit A, p. 68). The notice stated that the amount of the OI was \$1,782.00 (Exhibit A, p. 68).
7. On September 17, 2024, MDHHS sent Petitioner a Notice of Overissuance, indicating that she received more FAP benefits than she was eligible to receive from January 1, 2023 to April 30, 2023 (Exhibit A, p. 74). The Notice indicated that the OI was due to agency error because MDHHS failed to include employment income in the FAP benefit calculation (Exhibit A, p. 74). The notice stated that the amount of the OI was \$2,780.00 (Exhibit A, p. 74).
8. On September 30, 2024, Petitioner filed a Request for Hearing disputing MDHHS' determinations.

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 an OI of FAP benefits based on client error, because she failed to report exceeding the Simplified Reporting (SR) limit. Additionally, MDHHS determined that Petitioner received an OI of FAP benefits based on agency error, because MDHHS failed to include employment income in the household's FAP budget calculation.

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 presented evidence that Petitioner's household exceeded the SR limit in ██████ 2022, and therefore, Petitioner was required to report the increase by September 10, 2022. The increase in income was due to employment income received by ██████ (Household Member) from ██████ (Employer). The record shows that in ██████ 2022, Household Member received \$█████ in gross earnings from Employer (Exhibit A, p. 58). This amount exceeded the SR limit of \$1,888.00 for the household. Thus, Petitioner was required to report the increase in income to MDHHS by September 10, 2022. At the hearing, Petitioner failed to present sufficient evidence to show that she reported the increase in income prior to the deadline. Additionally, Petitioner had an opportunity to report the increase on the Semi-Annual Contact Report that she submitted to MDHHS on November 10, 2022. The Semi-Annual Contact Report asked if the household's monthly income of \$1,089.00 had changed by more than \$125.00 (Exhibit A, p. 25). Petitioner responded in the negative (Exhibit A, p. 25). The record shows that Household Member's income from Employer in the preceding month of ██████ 2022 was \$█████ (Exhibit A, p. 58). Thus, Petitioner's statement was inaccurate because the household income had increased substantially.

MDHHS established that Petitioner had a responsibility to report exceeding the SR limit and that she failed to do so, which led to an OI of benefits. The record shows that Petitioner received \$1,782.00 in FAP benefits from October 1, 2022 to December 31, 2022 (Exhibit A, pp. 32). MDHHS presented OI budgets that included Household Member's income from Employer (Exhibit A, pp. 34-39). Due to the additional income, the household was not eligible for any FAP benefits during that time

period. Thus, MDHHS properly determined that Petitioner received an OI of FAP benefits in the amount of \$1,782.00 based on client error.

Regarding the OI based on agency error, MDHHS alleged that it had information regarding Household Member's employment at Employer and that it failed to properly process the change. The delay led to an OI in FAP benefits from January 1, 2023 to April 30, 2023 (Exhibit A, p. 74). MDHHS is required to adhere to the standards of promptness (SOP) outlined in Department policy when it becomes aware of changes in a client's eligibility factors. BAM 220 (October 1, 2022), p. 7. Failing to do so constitutes an agency error.

Petitioner received \$2,780.00 from January 2023 to April 2023 (Exhibit A, pp. 42-43). MDHHS presented OI budgets which recalculated Petitioner's eligibility for FAP benefits after adding Household Member's income from Employer (Exhibit A, pp. 45-52). The OI budgets demonstrate that Petitioner's household was not eligible for any FAP benefits during the time period in question due to excess income. Thus, MDHHS properly determined that Petitioner received an OI of FAP benefits in the amount of \$2,780.00 based on agency 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 MDHHS acted in accordance with Department policy when it determined that Petitioner received an OI of FAP benefits based on client and agency error.

DECISION AND ORDER

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

LJ/pt



Linda Jordan

Administrative Law Judge

