



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

██████████
██████████
██████████ MI ██████████

Date Mailed: December 13, 2024
MOAHR Docket No.: 24-012130
Agency No.: ██████████
Petitioner: ██████████ ██████████

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 telephone hearing was held via Microsoft Teams on December 9, 2024. Petitioner participated and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Anna Peterson, overpayment establishment analyst.

ISSUES

The issue is whether MDHHS established against Petitioner a recipient claim for Food Assistance Program (FAP) benefits.

FINDINGS OF FACT

The administrative law judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. As of June 2021, Petitioner was an ongoing FAP benefit recipient and employee with ██████████ ██████████ ██████████ LLC (hereinafter, "Employer1").
2. From June through December 2021, Petitioner received a minimum of \$2,000 in gross monthly wages from PACE Southeast Michigan (hereinafter, "Employer2").
3. On June 21, 2021, Petitioner submitted to MDHHS a Semi-Annual Contact Report (SACR) reporting ongoing wages with Employer1 while reporting no other employment

4. On June 25, 2021, following MDHHS mailing Petitioner wage match documents from Employer2, Petitioner verbally reported to MDHHS that wages from Employer2 would end beginning July 2021.
5. On July 12, 2021, MDHHS sent Petitioner notice of an approval for FAP benefits instructing to report when gross household income exceeded \$1,868.
6. From October through December 2021, MDHHS issued \$1,662 in FAP benefits to Petitioner based on \$0 wages from Employer2.
7. As of December 2021, Petitioner had not reported to MDHHS ongoing wages from Employer2.
8. On December 26, 2021, MDHHS referred Petitioner's case to the recoupment unit.
9. On October 15, 2024, MDHHS calculated that Petitioner received \$1,662 in over-issued FAP benefits from October through December 2021 due to Petitioner's alleged failure to timely report wages from Employer2.
10. On October 15, 2024, MDHHS mailed Petitioner a Notice of Overissuance stating Petitioner received \$1,662 in over-issued FAP benefits from October through December 2021 due to client error.
11. On October 29, 2024, Petitioner requested a hearing to dispute the alleged OI of FAP benefits.

CONCLUSIONS OF LAW

The 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 the FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011. FAP policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing to dispute MDHHS's attempt to establish a recipient claim for allegedly over-issued FAP benefits. Exhibit A, p. 3. A Notice of Overissuance dated October 15, 2024, alleged Petitioner received \$1,662 in over-issued FAP benefits from October through December 2021 due to client error. Exhibit A, pp. 8-13.

An overissuance (OI) is the benefits issued to a client group in excess of what it was eligible to receive. BAM 700 (October 2018) pp. 1-2. When a client group receives more benefits than it is entitled to receive, MDHHS must attempt to recoup the OI. *Id.* Recoupment is an MDHHS action to identify and recover a benefit OI. *Id.* A claim is the resulting debt created from an OI of benefits. *Id.*

Federal regulations refer to OIs of FAP benefits as “recipient claims” and mandate states to collect them. 7 CFR 273.18(a). Recipient claim amounts not caused by trafficking are calculated by determining the correct amount of benefits for each month there was an OI and subtracting the correct issuance from the actual issuance.¹ 7 CFR 273.18(c)(1).

The types of recipient claims are those caused by agency error, unintentional client error, and IPV. 7 CFR 273.18(b). MDHHS may pursue FAP-related client errors when they exceed \$250. BAM 715 (June 2024) p. 7.

For client errors, the OI period begins the first month when the benefit issuance exceeds the amount allowed by policy; however, state agencies may not pursue amounts more than 72 months before becoming aware of the overpayment. 7 CFR 273.18(c)(i). MDHHS sent Petitioner a Notice of Overissuance in October 2024. Exhibit A, pp. 8-13. Accepting the Notice of Overissuance mailing date as the date of MDHHS’s awareness, MDHHS is not barred by timeliness from pursuing a claim against Petitioner for an OI period beginning October 2021.²

MDHHS specifically alleged that Petitioner’s failure to timely report wages from Employer2 caused the OI. Petitioner testified she timely reported wages from Employer2 to MDHHS. Petitioner seemingly alleged a reporting date of June 25, 2024: the date that MDHHS documented that it called Petitioner about recently obtained employment with Employer2. Exhibit A, p. 37. MDHHS also documented that Petitioner reported that the employment with Employer2 was temporary and conflicted with ongoing employment with Employer1. Exhibit A, p. 37. Based on Petitioner’s alleged reporting, MDHHS continued budgeting wages from Employer1 while not budgeting wages from Employer2.

Petitioner testified she told MDHHS the exact opposite of what MDHHS documented. Petitioner also testified she told her specialist that she would be stopping wages with Employer1 because Employer2 paid more money and offered health insurance. Petitioner ultimately blamed MDHHS for any OI that occurred. Petitioner’s testimony was not consistent with the evidence.

First, wage match documentation verified earnings for Petitioner from Employer1 and Employer2 beginning the second quarter of 2021 through the first quarter of 2022. Exhibit A, p. 35. Petitioner’s claim that she reported a stoppage of wages with Employer1 in June 2021 contradicts documentation verifying continuing wages from Employer1 into 2022.

¹ Additionally, MDHHS is to subtract any benefits that were expunged (i.e., unused benefits which eventually expire from non-use). There was no evidence that any of the benefits issued to Petitioner were expunged.

² Arguably, MDHHS’s awareness occurred in December 2021, when Petitioner’s case was referred to the recoupment unit. Exhibit A, p. 42.

Secondly, if MDHHS had mistakenly budgeted income from incorrect employment, Petitioner made no known efforts to correct the error. MDHHS sent Petitioner notice of ongoing FAP benefit approval beginning August 2021 based on ongoing wages of \$1,514 per month. Exhibit A, pp. 28-32. The notice also instructed Petitioner to report when gross monthly warnings exceeded \$1,868. Petitioner's monthly earnings with Employer2 exceeded \$2,000 every month beginning June 2021. Exhibit A, p. 36. There was no evidence that Petitioner ever reported to MDHHS earnings exceeding \$1,868.³

Thirdly and most concerningly, Petitioner misreported income in writing. Petitioner submitted to MDHHS a SACR on June 21, 2021 listing ongoing income with Employer1; Petitioner made no mention of ongoing wages from Employer2. Exhibit A, pp. 38-39. As of June 21, 2021, Petitioner had already received one pay from Employer2. Though Petitioner's testimony claimed she had not yet received income yet from Employer2, her testimony contradicted documentation of Petitioner's pay date history. The evidence established that Petitioner misreported income.

MDHHS presented FAP-OI budgets from October through December 2021 demonstrating how an OI was calculated. Exhibit A, pp. 17-23. Actual issuances totaling \$1,662 were taken from documentation listing Petitioner's past issuances. Exhibit A, p. 16. Presumably, the only change from original budgets was the inclusion of Petitioner's actual gross income from Employer2. Documents from Employer2 listed wages for Petitioner from June 11, 2021, through December 24, 2021. Exhibit A, p. 36. The FAP-OI budgets properly factored Petitioner's wages from Employer2 as unreported, thereby depriving Petitioner of a 20% credit for timely reported income. Using the procedures in BEM 556 for calculating FAP benefits, an OI of \$1,662 was calculated. For all alleged OI months, Petitioner's gross income exceeded the gross income limit.⁴

MDHHS delayed beginning an OI period until October 2021 despite Petitioner's earlier misreporting. For claims based on a client's failure to report a change, MDHHS is to begin the OI in the first full benefit month after allowing time for the client to report changes (10 days- see BAM 105), MDHHS to process changes (10 days- see BAM 220), and the full negative action suspense period (12 days- see *Id.*). BAM 715 (October 2017) p. 5. Based on an income change date in June 2021, MDHHS is not barred from pursuing an OI beginning October 2021.⁵

The evidence established that Petitioner received \$1,662 in over-issued FAP benefits from October through December 2021 due to Petitioner's failure to timely report wages.

³ Petitioner testimony claimed she did not receive notice of the obligation to report, and that mail is often misdelivered. Petitioner's claim was not credible given its lack of corroboration and other inconsistencies in Petitioner's testimony.

⁴ See BEM 556 for calculating FAP eligibility including when gross income exceeds the income limit.

⁵ Theoretically, MDHHS could have pursued an earlier OI based on Petitioner's misreporting in June 2021 for what appeared to be a benefit redetermination affecting benefits beginning August 2021.

Thus, MDHHS established a recipient claim against Petitioner for \$1,662 due to, at minimum, client error.⁶

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS established against Petitioner a \$1,662 claim for FAP benefits over-issued from October through December 2021 due to client error, at minimum. The MDHHS action to establish against Petitioner a recipient claim is **AFFIRMED**.

CG/nr



Christian Gardocki
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

⁶ MDHHS testified that Petitioner's case would be later referred to the Office of Inspector General for evaluation of upgrading the cause of the OI to an intentional program violation (IPV). For purposes of the present hearing, it is sufficient to establish that the OI occurred was caused by client error.

Via-Electronic Mail :

Agency Representative

Anna Peterson
Overpayment Establishment Section (OES)
235 S Grand Ave Ste 811
Lansing, MI 48933

MDHHS-Recoupment-Hearings@michigan.gov

Interested Parties

BSC4
M. Holden
N. Denson-Sogbaka
B. Cabanaw
MOAHR

DHHS

Jared Ritch
Oakland County Pontiac-Woodward Dist.
51111 Woodward Ave 5th Floor
Pontiac, MI 48342

MDHHS-Oakland-District-IV-Hearings@michigan.gov

Via-First Class Mail :

Petitioner

██████████
████████████████████
██████████, MI ██████████