



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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[REDACTED]
[REDACTED], MI [REDACTED]

Date Mailed: December 17, 2024
MOAHR Docket No.: 24-012785
Agency No.: [REDACTED]
Petitioner: [REDACTED]

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 hearing was held by via Microsoft Teams on December 12, 2024. Petitioner participated and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) did not participate in the hearing despite being given at least 15 minutes from the scheduled hearing time.

ISSUE

The issue is whether MDHHS established against Respondent a claim for allegedly over-issued 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. On October 31, 2024, MDHHS mailed Petitioner a Notice of Overissuance alleging that Respondent received \$1,509 in over-issued FAP benefits from December 2023 through September 2024 due to agency-error.
2. On November 13, 2024, Petitioner requested a hearing to dispute the alleged overissuance (OI).
3. On December 12, 2024, an administrative hearing was held in which MDHHS did not present evidence to support the alleged OI.

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 attempted an recoupment of allegedly overissued FAP benefits. A Notice of Overissuance dated October 31, 2024, alleged that Petitioner received \$1,509 in over-issued FAP benefits from December 2023 through September 2024 due to agency error.

An OI is the benefits issued to the 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 by 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).

Recipient claims may be caused by agency error, unintentional client error, or IPV. 7 CFR 273.18(b). MDHHS may pursue FAP-related agency errors when they exceed \$250. BAM 705 (October 2018) p. 1. Thus, MDHHS may establish a claim against Petitioner if the established OI exceeds \$250.

MDHHS did not participate in the administrative hearing. Without MDHHS’s participation, MDHHS was unable to submit evidence supporting that Petitioner received an OI of benefits.

Given the evidence, MDHHS failed to establish a recipient claim of FAP benefits against Petitioner. As a remedy, Petitioner is entitled to deletion of the claim, as well as a supplement for any FAP benefits previously recouped.

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.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS failed to establish an OI of FAP benefits against Petitioner. It is ordered that MDHHS commence the following actions within 10 days of the date of mailing of this decision:

(1) Delete the recipient claim against Petitioner for \$1,509 in FAP benefits allegedly over-issued from December 2023 through September 2024 due to agency-error; and

(2) Supplement Petitioner for any FAP benefits previously recouped.

The actions taken by MDHHS are **REVERSED**.

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

Via-Electronic Mail :

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Interested Parties

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Via-First Class Mail :

Petitioner

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