



GRETCHEN WHITMER
GOVERNOR

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

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

Date Mailed: January 2, 2025
MOAHR Docket No.: 24-012914
Agency No.: [REDACTED]
Petitioner: [REDACTED] [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 Microsoft Teams hearing was held on December 23, 2024; the parties participated by telephone. Petitioner appeared and was unrepresented. [REDACTED] [REDACTED] Petitioner's spouse. testified on behalf of Petitioner. The Michigan Department of Health and Human Services (MDHHS) was represented by Julie Barr, overpayment establishment analyst.

ISSUE

The issue is whether MDHHS established against Respondent a recipient claim for allegedly overissued Food Assistance Program (FAP) benefits due to 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. As of May 2023, Petitioner was an ongoing recipient of FAP benefits as a member of a five-person group eligible to receive \$944 in monthly FAP benefits.
2. On May 5, 2023, MDHHS issued Petitioner \$944 in monthly ongoing FAP benefits.
3. On February 20, 2024, due to a system glitch, MDHHS again issued \$944 in FAP benefits for Petitioner's May 2023 FAP eligibility.

4. On an unspecified date no later than November 8, 2024, an overissuance referral was made to MDHHS's recoupment unit.
5. On November 8, 2024, MDHHS determined that Petitioner received an overissuance (OI) of \$944 in FAP benefits for May 2023 due to agency error and sent Petitioner a corresponding Notice of Overissuance.
6. On November 19, 2024, MDHHS sent Petitioner an updated Notice of Overissuance explaining that a "technical issue" caused an improper issuance of \$944.
7. On November 20, 2024, Petitioner requested a hearing to dispute the alleged OI of \$944.

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 originally requested a hearing to dispute MDHHS' attempt to establish a recipient claim related to allegedly overissued FAP benefits. Exhibit A, pp. 5-10. MDHHS initiated one claim by sending Petitioner a Notice of Overissuance on November 8, 2024. Exhibit A, pp. 52-57. MDHHS explained that the Notice of Overissuance dated November 8, 2024 failed to provide details explaining its reasoning for pursuing a claim; thus, MDHHS closed its pursuit of the claim. Exhibit A, p. 58. Because MDHHS cancelled its pursuit of the claim, a hearing is not needed concerning the claim initiated by MDHHS on November 8, 2024.

Petitioner then requested another hearing after MDHHS repursued the claim.¹ Exhibit A, pp. 11-18. A Notice of Overissuance and related summary dated November 19, 2024, alleged that Petitioner received an OI of \$944 in FAP benefits for May 2023 due to a "technical issue" and agency error. Exhibit A, pp. 46-51.

¹ MDHHS half-heartedly contended that Petitioner is barred from disputing the OI due to signing and returning a repay agreement. Exhibit A, p. 12. Petitioner's spouse signed the agreement and dated it November 23, 2025 (yes, one year in the future). Generally, a signed repay agreement is accepted as acknowledgement and agreement to repay a claim (see BAM 700). When the repay agreement is returned with a signed hearing request, MDHHS should be aware that a client is not agreeing to repay the claim. Indeed, Petitioner's spouse testified she disputes the claim alleged by MDHHS. Given the circumstances, the repay agreement will not be recognized as valid and the analysis will proceed to the merits of Petitioner's dispute.

An OI is the benefits issued to the client group in excess of what it was eligible to receive. BAM 700 (June 2024) 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 as “recipient claims” and mandate states to collect them. 7 CFR 273.18(a). Recipient claims not caused by trafficking are calculated by subtracting the correct benefit amount from the actual issuance. 7 CFR 273.18(c)(1). Additionally, expunged benefits (i.e., unused benefits which eventually expire from non-use) are to be subtracted from the OI.²

The types of recipient claims are those caused by agency error, unintentional recipient claims, and IPV. 7 CFR 273.18(b). MDHHS pursues FAP-related agency errors when they exceed \$250. BAM 705 (October 2018), p. 1.

Clients requesting hearings disputing an agency-error overissuance typically contend that they should not be required to repay an OI caused by MDHHS’ error. MDHHS may pursue agency-caused OIs if the amount exceeds \$250. There is no maximum limit to the amount of OI that may be recouped. Thus, MDHHS may establish an OI against Petitioner if the OI is established to exceed \$250.

Agency-related OIs are restricted in how far MDHHS may go back to establish an OI. The OI period for agency-related errors begins the first month when a benefit issuance exceeds the amount allowed by policy, or 12 months before the date the overissuance was referred to the RS, whichever period is later. BAM 705 (June 2024) p. 5. The evidence did not establish when an OI referral was made to the recoupment unit. Given that a recoupment specialist sent a Notice of Overissuance to Petitioner on November 8, 2024, it can be inferred that a referral was made no later than November 8, 2024. Documentation of past FAP issuances to Respondent listed that the disputed issuance occurred on February 20, 2024. Exhibit A, pp. 37-38. Given the latest possible referral date and disputed issuance date, it can be concluded that the OI occurred within 12 months of the referral. Therefore, MDHHS is not barred from pursuing the OI.

A FAP budget from May 2023 verified that Petitioner was eligible for FAP benefits of \$944 in May 2023. Exhibit A, pp. 33-36. Documentation of past FAP issuances listed a \$944 FAP issuance to Petitioner on May 5, 2023. The same documents listed an inexplicable second issuance of \$944 on February 20, 2024, for the benefit month of May 2023. *Id.* MDHHS testified that the second issuance was caused by a system glitch which affected approximately 200 cases statewide.

Consideration was given to whether the issuance was a proper supplement of FAP benefits not received by Petitioner in May 2023. It was not disputed that Petitioner’s

² There was no evidence that FAP benefits issued to Respondent during the alleged OI period were expunged.

FAP benefit group in May 2023 was five persons. As of May 2023, the maximum FAP issuance for a five-person FAP benefit group was \$1,116. RFT 260 (October 2022) p. 1. Under no circumstances could Petitioner have been eligible to receive FAP benefits of \$1,888 (\$944 x 2) in in May 2023 for a five-person benefit group.

Petitioner's spouse testified that the original FAP budget improperly included child support income which was not received by the benefit group. Petitioner's spouse's testimony is relevant to determining if the original FAP eligibility of \$944 for May 2023 was correct; however, that is not the subject of the present hearing.

The evidence established that Petitioner received an OI of \$944 in FAP benefits for May 2023 due to agency-error. The evidence further established that MDHHS employed proper procedures in establishing an OI against Petitioner for the OI. Thus, MDHHS established a claim against Petitioner for \$944.

Petitioner should be aware that an OI can be reduced or eliminated if a hardship to repayment is established. MDHHS can reduce or vanquish recipient claims when the overissuance cannot be paid within three years due to economic hardship. BAM 725 (October 2017), p. 1. Requests for hardship must be made from the recoupment specialist to the Overpayment, Research and Verification Section office outlining the facts of the situation and client's financial hardship. *Id.* The manager of the MDHHS Overpayment, Research and Verification Section has final authorization on the determination for all compromised claims.³ *Id.*

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly established a recipient claim of \$944 for FAP benefits over-issued to Petitioner for May 2023 due to agency-error. The actions taken by MDHHS are **AFFIRMED**.

CG/nr



Christian Gardocki

Administrative Law Judge

³ MDHHS limits jurisdiction to determining hardships to its own agency. Thus, administrative hearing jurisdiction cannot be extended to consider whether Petitioner is eligible for a hardship. Petitioner is encouraged to pursue a hardship if needed.

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 :

DHHS
Tracey Jones
Oakland County Southfield District III
25620 W. 8 Mile Rd
Southfield, MI 48033
MDHHS-Oakland-6303-Hearings@michigan.gov

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

Via-First Class Mail :

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

Authorized Hearing Rep.
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[REDACTED]
[REDACTED], MI [REDACTED]