



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

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██████████, MI ██████████

Date Mailed: January 10, 2025
MOAHR Docket No.: 24-013224
Agency No.: ██████████
Petitioner: ██████████ ██████████

ADMINISTRATIVE LAW JUDGE: Caralyce M. Lassner

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 telephone on January 2, 2025. Petitioner appeared and represented himself. The Department of Health and Human Services (Department) was represented by Anna Peterson, Overpayment Establishment Analyst.

ISSUE

Did the Department properly determine that Petitioner received an overpayment (OP) of Food Assistance Program (FAP) benefits in the amount of \$1,234, for the period of September 1, 2021 to January 31, 2022, due to 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 July 12, 2021, Petitioner applied for FAP benefits for himself and reported was unemployed and receiving Supplemental Security Income (SSI) of \$751 per month. (Exhibit A, pp. 43 – 48).
2. In August 2021, Petitioner began working for ██████████ ██████████ (Employer) and received his first paycheck during the third quarter of 2021. (Exhibit A, p. 26).
3. On January 3, 2022, the Department received a change report from Petitioner, which reported his employment to the Department. (Exhibit A, pp. 40 – 42).

4. From September 1, 2021 through January 31, 2022, Petitioner received FAP benefits and supplements in the amount of \$1,245. (Exhibit A, pp. 35 – 36).
5. On November 4, 2024, the Department sent Petitioner a Notice of Overissuance for the period of September 1, 2021 to January 31, 2022 in the amount of \$1,234. (Exhibit A, pp. 6 – 11).
6. On November 21, 2024, the Department received Petitioner's request for hearing, disputing the OP. (Exhibit A, pp. 4 – 5).

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. The Department (formerly known as the Department of Human Services) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011.

Petitioner requested a hearing in this matter to dispute a finding by the Department that Petitioner received an OP of FAP benefits in the amount of \$1,234 for the period of September 1, 2021 to January 31, 2022 (OP period) based on Petitioner's failure to report changes in his earnings to the Department in a timely manner. Petitioner asserted that he did report his earnings.

When a client group receives more benefits than entitled to receive, the Department must attempt to recoup the OP as a recipient claim. BAM 700 (June 2024), p. 1; 7 CFR 273.18(a)(2). The amount of a FAP OP is the benefit amount the client actually received minus the amount the client was eligible to receive. BAM 715 (October 2017), p. 6; 7 CFR 273.18(c)(1). A FAP OP can be caused by client error, agency error, or an intentional program violation (IPV), and a client error occurs when the OP was caused by inaccurate reporting by the client. BAM 700, p. 2. When an OP in excess of \$250.00 is discovered, the Department is required to establish a claim for repayment for the OP. BAM 700, p. 5; 7 CFR 273.18(d)(3).

FAP recipients who have a change in income have 10 days after their first pay date to report the change to the Department. BAM 105 (August 2021), pp. 11 – 12. When the change is an increase in income and a decrease in FAP benefits, the Department has 10 days to take action on the change and issue a Notice of Case Action (NOCA). BAM 220 (August 2021), p. 7. The effective date of the change is the first day of the month at

least 12 calendar days following the NOCA. BAM 220, p. 13; BEM 505 (August 2021), p. 13. The OP period begins the first month after the full notice period allowed by policy. BAM 715, p. 5.

In this case, Petitioner began working for Employer in August 2021 but did not report his employment and income to the Department until January 2022. Therefore, Petitioner did not timely report when he began working for Employer and the Department properly determined Petitioner received a FAP OP in this case due to client error.

The Department testified that because Petitioner did not timely report his employment to the Department, he received an OP of FAP benefits from September 1, 2021 to January 31, 2022 in the amount of \$1,234. Although the evidence established that Petitioner began working for Employer during the third quarter of 2021, there was no evidence of Petitioner's first pay date and Petitioner credibly testified that he began working for Employer in August 2021, although he did not recall the exact date. Therefore, because Petitioner started working for Employer in August 2021, the OP period begins after the full negative action period and the first month of the OP is October 2021.

In support of the OP amount sought, the Department introduced revised budgets for each of the months within the OP period, using Petitioner's actual income as determined based on a monthly average of his quarterly earnings. (Exhibit A, pp. 14 – 23). The Department's evidence established that when the income Petitioner earned from Employer was considered in the calculation of his FAP eligibility, Petitioner had excess gross earned income for FAP in each month from October 1, 2021 through January 31, 2022. Therefore, the Department properly determined that Petitioner was not eligible for any FAP benefits from October 1, 2021 through January 31, 2022.

The evidence established that from October 1, 2021 through January 31, 2022, Petitioner was issued \$1,011 in FAP benefits. Therefore, because Petitioner was not eligible for any FAP benefits from October 1, 2021 through January 31, 2022, the Department is entitled to recoup \$1,011 in a FAP OP for that period due to 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 acted in accordance with Department policy when it determined that Petitioner received a FAP OP of \$1,011 from October 1, 2021 through January 31, 2022 due to client error, but failed to satisfy its burden of showing that it acted in accordance with Department policy when it determined Petitioner received a FAP OP for September 2021.

DECISION AND ORDER

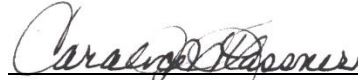
Accordingly, the Department's decision is **REVERSED with respect to the September 2021 OP**.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS

HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Remove September 2021 from the OP period;
2. Reduce the total FAP OP to \$1,011; and
3. Notify Petitioner of its decision in writing.

CML/nr



Caralyce M. Lassner
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

Rhonda Holland
Overpayment Establishment Section (OES)
235 S Grand Ave Ste 811
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Interested Parties

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Petitioner

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