



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

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Date Mailed: January 17, 2025
MOAHR Docket No.: 24-013945
Agency No.: ██████████
Petitioner: ██████████

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 January 16, 2025, via teleconference. Petitioner appeared and represented himself. Krysenda Slayton, 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. 1-43.

ISSUE

Did MDHHS properly determine that Petitioner received an overissuance (OI) of Food Assistance Program (FAP) benefits based on 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. Petitioner was an ongoing recipient of FAP benefits.
2. On September 20, 2018, MDHHS sent Petitioner a Notice of Case Action indicating that he was approved for FAP benefits and that he was required to report changes in circumstances that may affect eligibility levels to MDHHS within ten days (Exhibit A, pp. 33-36).
3. On March 13, 2019, MDHHS sent Petitioner a Notice of Case Action indicating that he was approved for FAP and that he was required to report changes in circumstances that may affect eligibility levels to MDHHS within ten days (Exhibit A, pp. 39-42).

4. On [REDACTED] 2019, Petitioner entered into a Purchase Agreement for the sale of property located in [REDACTED] Michigan for \$ [REDACTED] (Exhibit A, p. 22). By the terms of the Purchase Agreement, the parties were required to close by [REDACTED] 2019 (Exhibit A, p. 22).
5. On [REDACTED] 2019, Petitioner submitted a redetermination for FAP to MDHHS (Exhibit A, p. 25). Petitioner did not report any assets (Exhibit A, p. 28).
6. On July 16, 2024, MDHHS sent Petitioner a Notice of Overissuance indicating that MDHHS determined that Petitioner received an OI of FAP benefits from July 1, 2019 to September 30, 2019 (OI period) in the amount of \$576.00 (Exhibit A, p. 11). MDHHS alleged that the OI was caused by client error because Petitioner failed to report the sale of the home in a timely manner (Exhibit A, p. 11). The proceeds from the sale caused Petitioner to be ineligible for FAP benefits due to excess assets (Exhibit A, p. 11).
7. On August 15, 2024, Petitioner requested a hearing (Exhibit A, p. 4).

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.

In this case, MDHHS determined that Petitioner received an OI of FAP benefits based on client error, because he failed to report the sale of his home to MDHHS in a timely manner. MDHHS alleged that the proceeds from the sale of the home caused Petitioner to be ineligible for FAP benefits due to excess assets. FAP beneficiaries are required to report changes in circumstances that may affect eligibility levels to MDHHS within ten days. This includes the sale of assets. BAM 105 (January 2019), p. 1.

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.

Here, MDHHS alleged that Petitioner sold his home for \$ [REDACTED] on [REDACTED] 2019. Petitioner questioned the date of the sale and testified that he sold his house in the summer of 2019. The record shows that Petitioner signed the Purchase Agreement on [REDACTED] 2019, with a closing deadline of [REDACTED] 2019 (Exhibit A, p. 22). Although it is unclear from the record, for the purposes of this Hearing Decision, it is assumed that Petitioner received payment for the home by the closing date of [REDACTED] 2019. Neither party introduced sufficient evidence to refute this contention.

At the time of the sale, there was an asset limit of \$5,000.00 or less for FAP. BEM 400 (April 2018), p. 5. Accordingly, Petitioner was no longer be eligible for FAP once he had a cash asset of \$ [REDACTED]. No evidence was introduced to show that Petitioner spent down this asset during the OI period or that the asset was unavailable to him or excluded on other grounds. Because assets affected eligibility for FAP at that time, Petitioner was required to report the asset to MDHHS within ten days of the sale, or by June 17, 2019. MDHHS alleged that Petitioner did not report the sale within this timeframe. Petitioner testified that he dropped off proof of the sale to MDHHS around the time of the sale but could not provide the date or other specific details regarding the event. Petitioner's testimony was insufficient to refute MDHHS' contention that it did not receive any information regarding the sale of the property before or during the OI period. Thus, MDHHS has established that Petitioner failed to properly report the sale to MDHHS, which constitutes a client error.

MDHHS introduced evidence to show that Petitioner received \$576.00 in FAP benefits during the OI period. Because he was not eligible to receive any FAP benefits during this time, MDHHS properly determined that he received an OI of FAP benefits in the amount of \$576.00.

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 error.

DECISION AND ORDER

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

LJ/pt


Linda Jordan
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

Krysenda Slayton
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DHHS

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Interested Parties

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B Cabanaw
N Denson-Sogbaka
MDHHS Recoupment
MOAHR

Via-First Class Mail:

Petitioner

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