



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

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

Date Mailed: January 30, 2025
MOAHR Docket No.: 24-014033
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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 on January 21, 2025, from Lansing, Michigan. [REDACTED] Petitioner, appeared on her own behalf. The Department of Health and Human Services (Department) was represented by Julie Barr, Overpayment Establishment Analyst (OEA).

During the hearing proceeding, the Department's hearing summary packet was admitted as Exhibit A, pp. 1-48.

ISSUE

Did the Department properly determine that Petitioner received Food Assistance Program (FAP) benefits that she was not eligible for and must be recouped?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. From April 1, 2021 to May 31, 2021 Petitioner received FAP benefits subject to recoupment totaling \$1,486.00. (Exhibit A, p. 23)
2. On [REDACTED] 2020, Petitioner applied for FAP for her household, which included son [REDACTED] ([REDACTED]). Petitioner reported her employment with [REDACTED] 40 hours per week, \$[REDACTED] per hour. No additional income was reported. (Exhibit A, pp. 40-46)

3. On January 27, 2021, a Notice of Case Action was issued to Petitioner approving FAP for a household size of four, including ■. A budget summary was included showing earned income of \$■■■■ was included in the FAP budget. The Notice indicated Petitioner was a simplified reporter and was only required to report lottery or gambling winnings over a specified amount and when household gross monthly income exceeded \$2,839.00. A change in income over this amount was to be reported by the 10th day of the following month. (Exhibit A, pp. 14-19)
4. A Wage Match showed that ■ had earnings from employment with ■■■■■ in the first and second quarters of 2021 and with ■■■■■ in the second quarter of 2021. (Exhibit A, p. 29)
5. An Earnings Request documented that ■ was employed with ■■■■■ from February 8, 2021 to June 10, 2021. His first pay date was ■■■■■, 2021 and his last pay date was ■■■■■ 2021. (Exhibit A, pp. 30-33)
6. On ■■■■■, 2021, Petitioner submitted a Semi-Annual Contact Report. Petitioner reported that her son ■ was no longer in the home. Petitioner also reported that the household's monthly income from employment had not changed by more than \$100.00 from \$■■■■■. (Exhibit A, pp. 37-39)
7. Petitioner's household's gross monthly income began exceeding the simplified reporting limit when ■ began receiving income from employment with ■■■■■ (Exhibit A, p. 3; OEA Testimony)
8. The Department determined that Petitioner was overissued FAP benefits from April 1, 2021 to May 31, 2021 in the amount of \$1,486.00 due to client error of failing to report when income exceeded the Simplified Reporting limit. (Exhibit A, pp. 24-28)
9. On October 31, 2024, the Department sent Petitioner a Notice of Overissuance instructing her that a \$1,486.00 overissuance of FAP benefits occurred from April 1, 2021 to May 31, 2021 due to client error and would be recouped. (Exhibit A, pp. 8-13)
10. On December 9, 2024, the Department received Petitioner's request for a hearing protesting the recoupment of FAP benefits. (Exhibit A, pp. 4-6)

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.

Department policy requires clients to completely and truthfully answer all questions on forms and in interview. BAM 105 (July 1, 2020) p. 9. Generally, clients must also report changes in circumstance that potentially affect eligibility or benefit amount within 10 days. BAM 105, pp. 11-13. However, the change reporting requirements are different for FAP simplified reporters. FAP simplified reporting households must report when the household monthly income exceeds the monthly gross income limit for its household size. 7 CFR 273.12(a)(5)(ii)(G)(1) Further, periodic reports are to be submitted on which it is requested that the household report any changes in circumstances. 7 CFR 273.12(a)(5)(iii). Similarly, Department policy regarding change reporting for FAP simplified reporting household indicates that simplified reporting groups are required to report only when the group's actual gross monthly income (not converted) exceeds the Simplified Reporting (SR) income limit for their group size. If the group has an increase in income, the group must determine their total gross income at the end of that month. If the total gross income exceeds the group's SR income limit, the group must report this change to their specialist by the 10th day of the following month, or the next business day if the 10th day falls on a weekend or holiday. Once assigned to SR, the group remains in SR throughout the current benefit period unless they report changes at their semi-annual contact or redetermination that make them ineligible for SR. BAM 200, January 1, 2021, p. 1. Groups meeting the simplified reporting category at application and redetermination are assigned a 12-month benefit period and are required to have a semi-annual contact. BAM 200, p. 3.

For FAP, the Department will act on a change reported by means other than a tape match within 10 days of becoming aware of the change. A change report by tape match is to be acted upon within 15 workdays. BAM 220, January 1, 2021, p. 7. A pending negative action occurs when a negative action requires timely notice based on the eligibility rules in this item. Timely notice means that the action taken by the department is effective at least 12 calendar days following the date of the department's action. BAM 220, p. 12.

When a client group receives more benefits than it is entitled to receive, the Department must attempt to recoup the overpayment. BAM 700, June 1, 2024, p. 1. An agency error is a type of overpayment or underissuance resulting from an incorrect action or failure to take action by the state agency. A client error is a type of overpayment or underissuance resulting from inaccurate reporting on the part of the household. BAM 700, p. 5. Agency and client errors are not pursued if the OP amount is equal to or less than \$250 per program. BAM 700 p. 5.

The Department determined that Petitioner was overissued FAP benefits from April 1, 2021 to May 31, 2021 in the amount of \$1,486.00 due to client error of failing to report

when income exceeded the Simplified Reporting limit. (Exhibit A, pp. 24-28). Accordingly, on October 31, 2024, the Department sent Petitioner a Notice of Overissuance instructing her that a \$1,486.00 overissuance of FAP benefits occurred from April 1, 2021 to May 31, 2021 due to client error and would be recouped. (Exhibit A, pp. 8-13).

On [REDACTED] 2020, Petitioner applied for FAP for her household, which included son [REDACTED]. Petitioner reported her employment with [REDACTED] 40 hours per week, \$[REDACTED] per hour. No additional income was reported. (Exhibit A, pp. 40-46). On January 27, 2021, a Notice of Case Action was issued to Petitioner approving FAP for a household size of four, including [REDACTED]. A budget summary was included showing earned income of \$[REDACTED] was included in the FAP budget. The Notice indicated Petitioner was a simplified reporter and was only required to report lottery or gambling winnings over a specified amount and when household gross monthly income exceeded \$2,839.00. A change in income over this amount was to be reported by the 10th day of the following month. (Exhibit A, pp. 14-19).

A Wage Match showed that [REDACTED] had earnings from employment with [REDACTED] in the first and second quarters of 2021 and with [REDACTED] in the second quarter of 2021. (Exhibit A, p. 29). An Earnings Request documented that [REDACTED] was employed with [REDACTED] from February 8, 2021 to June 10, 2021. His first pay date was [REDACTED], 2021 and his last pay date was [REDACTED], 2021. (Exhibit A, pp. 30-33).

On [REDACTED] 2021, Petitioner submitted a Semi-Annual Contact Report. Petitioner reported that her son [REDACTED] was no longer in the home. Petitioner also reported that the household's monthly income from employment had not changed by more than \$100.00 from \$2,597.00. (Exhibit A, pp. 37-39).

Petitioner's household's gross monthly income began exceeding the simplified reporting limit when [REDACTED] began receiving income from employment with [REDACTED]. (Exhibit A, p. 3; OEA Testimony). Accordingly, Petitioner should have reported by March 10, 2021 that the household income exceeded the simplified reporting limit. Allowing time for the Department to act on the change that should have been reported, the client error overpayment began in April 2021.

Petitioner stated that she reported that her son had moved out. If he had still been in the home, she would have counted his income. Petitioner does not feel she should have to pay the FAP benefits back because he was not living in the home at that time. Petitioner did not recall the exact date that her son moved out. Petitioner indicated she first reported that her son moved out of the home on the Semi-Annual Contact Report, which the Department received on April 28, 2021. (Exhibit A, pp. 37-39; Petitioner Testimony).

The evidence indicates that Petitioner first reported that her son moved out of the home on the Semi-Annual Contact Report, which the Department received on April 28, 2021. Accordingly, the FAP household still included her son in February 2021, when she started receiving income from his employment with [REDACTED]. As noted above,

Petitioner should have reported by March 10, 2021 that the household income exceeded the simplified reporting limit. Allowing time for the Department to act on the change that should have been reported, the client error overpayment began in April 2021. Further, because Petitioner reported that her son had moved out on the April 28, 2021 Semi-Annual Contact Report, he would have been removed from the FAP household effective June 1, 2021 based on the allowed timeframes for the Department to process the reported change and provide the required advance notice of the new eligibility determination. Accordingly, the Department properly determined that there was an overissuance of FAP benefits for April and May 2021 due to Petitioner's failure to report when the household income exceeded the SR limit.

The above cited BAM 700 policy requires the Department to recoup the overpayment when a client group receives more benefits than it is entitled to receive. This includes overpayments caused by client or agency errors when the amount is at least \$250 per program.

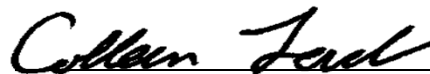
Overall, the evidence supports the Department's determination that Petitioner received an overpayment of FAP benefits from April 1, 2021 to May 31, 2021 in the amount of \$1,486.00 due to client error of not reporting when the household income exceeded the simplified reporting limit. Therefore, the Department properly sought recoupment of a \$1,486.00 client error overpayment of FAP benefits from Petitioner.

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 the \$1,486.00 overpayment of FAP benefits from April 1, 2021 to May 31, 2021 due to client error, which must be recouped.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.

CL/pt



Colleen Lack

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

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

MDHHS-Recoupment-Hearings@michigan.gov

DHHS

Shanna Ward
Osceola-Mecosta County DHHS
800 Watertower
Big Rapids, MI 49307

MDHHS-Mecosta-Osceola-Hearings@michigan.gov

Interested Parties

MOAHR

Via-First Class Mail:

Petitioner

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