



Date Mailed: February 14, 2025
Docket No.: 24-037915
Case No.: [REDACTED]
Petitioner: [REDACTED]

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هذه وثيقة قانونية مهمة. يرجى أن يكون هناك شخص ما يترجم المستند.

এটি একটি গুরুত্বপূর্ণ আইনি উকুমেন্ট। দয়া করে কেউ দ্রাবেজ অনুবাদ করুন।

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这是一份重要的法律文件。请让别人翻译文件。

Ky është një dokument ligjor i rëndësishëm. Ju lutem, kini dikë ta përktheni dokumentin.

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; 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 via telephone conference on February 6, 2025. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS or Department) was represented by Rebecca Webber, Overpayment Establishment Analyst.

ISSUE

Did MDHHS properly determine that Petitioner had been overissued Food Assistance Program (FAP) benefits due to agency error (AE) that MDHHS is entitled to recoup?

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 for a group size of four.
2. Petitioner was issued unemployment compensation benefits (UCB), receiving her first payment on November 3, 2018, and last payment on March 2, 2019 (Exhibit A, pp. 23-27).

3. Petitioner's adult daughter and household member, [REDACTED] (Daughter) worked for [REDACTED] (Employer), receiving her first paycheck on September 13, 2018 and last paycheck on March 26, 2020 (Exhibit A, pp. 32-36).
4. From January 1, 2019 through March 31, 2019, Petitioner was issued \$1,905.00 in FAP benefits for a group size of four (Exhibit A, p. 15).
5. On December 9, 2024, MDHHS issued a Notice of Overissuance to Petitioner informing her that she was overissued FAP benefits from January 1, 2019 through March 31, 2019, in the amount of \$1,905.00. The overissuance (OI) was deemed due to agency error (AE) because MDHHS failed to timely budget Petitioner's income from UCB and employment. Therefore, Petitioner was approved to receive more FAP benefits than she was eligible for that MDHHS is now attempting to recoup (Exhibit A, pp. 7-12).
6. On December 19, 2024, MDHHS received Petitioner's timely submitted hearing request to dispute that she must repay overissued FAP benefits due to agency error (Exhibit A, pp. 5-6).

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.

In this case, Petitioner requested a hearing disputing that she must repay overissued FAP benefits due to MDHHS error.

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. 1-2. An agency error, OI is caused by incorrect actions by MDHHS, including delayed or no action, which result in the client receiving more benefits than they were entitled to receive. A client error OI occurs when the client received more benefits than they were entitled to because the client gave incorrect or incomplete information to MDHHS. BAM 700, p. 6. An agency error, OI is caused by incorrect actions by MDHHS, including delayed or no action, which result in the client receiving more benefits than they were entitled to receive. BAM 700, p. 4. Here, MDHHS concedes that the OI occurred due to agency error for improperly failing to update Petitioner's FAP budget with household income from UCB and employment.

The amount of the OI is the benefit amount the group actually received minus the amount the group was eligible to receive. BAM 700, pp. 4-6; BAM 715 (October 2017), pp. 6-7. The overissuance period begins the first month when benefit issuance exceeds the amount allowed by policy, or 12 months before the date the overissuance was referred to the recoupment specialist, whichever 12 month period is later. To determine the first month of the overissuance period, Bridges, MDHHS's internal database, allows time for the full standard of promptness (SOP) for change processing. BAM 715, pp. 4-6. MDHHS testified they applied the "10 10 12 rule" to determine the start of the OI period. Meaning, action must be taken, and notice issued to the client, within the SOP of 10 days. The effective month is the first full month that begins after the negative action effective date. BEM 505 (October 2017), p. 11. MDHHS then has ten days to process the change and, if it results in a decrease in benefits, it gives the client 12 days before the negative action impacts the benefits issued. BAM 220 (January 2019), pp. 7, 12. Here, MDHHS testified that the OI period begins January 1, 2019, based upon applying the "10 10 12 Rule" to the start of Petitioner receiving UCB on November 3, 2018. Petitioner's UCB ended on March 2, 2019 and Daughter left the household in March 2019. MDHHS properly ended the OI period on March 31, 2019. Therefore, MDHHS acted in accordance with policy in determining the OI period.

MDHHS calculated the OI total for this period by calculating what Petitioner's FAP budget would have been had her UCB unearned income and Daughter's earned income from Employer been included in the household budget (see Exhibit A, pp. 16-22). MDHHS obtained Petitioner's UCB income information by conducting a consolidated inquiry search (see Exhibit A, pp. 24-27). MDHHS obtained Daughter's employment income information directly from Employer (see Exhibit A, pp. 32-36). MDHHS testified that the only change in Petitioner's FAP budget when calculating the OI budget versus the original budget was including this income information. A review of the OI budgets shows that had Petitioner's household income information been properly included in her budget, then Petitioner would not have been eligible for FAP benefits during the OI period. Since Petitioner was issued \$1,905.00 in FAP benefits, and was not eligible for FAP benefits during this period, the overissuance totals to \$1,905.00. Upon review, MDHHS properly determined the OI amount.

Despite the overissued benefits being due to agency error, MDHHS nevertheless is entitled to recoup benefits that were overissued. 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 was overissued FAP benefits that MDHHS is entitled to recoup.

DECISION AND ORDER

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



DANIELLE NUCCIO
ADMINISTRATIVE LAW JUDGE

APPEAL RIGHTS: Petitioner may appeal this Hearing Decision to the circuit court. Rules for appeals to the circuit court can be found in the Michigan Court Rules (MCR), including MCR 7.101 to MCR 7.123, available at the Michigan Courts website at courts.michigan.gov. The Michigan Office of Administrative Hearings and Rules (MOAHR) cannot provide legal advice, but assistance may be available through the State Bar of Michigan at <https://lrs.michbar.org> or Michigan Legal Help at <https://michiganlegalhelp.org>. A copy of the circuit court appeal should be sent to MOAHR. A circuit court appeal may result in a reversal of the Hearing Decision.

Either party who disagrees with this Hearing Decision may also send a written request for a rehearing and/or reconsideration to MOAHR within 30 days of the mailing date of this Hearing Decision. Requests MOAHR receives more than 30 days from the mailing date of this Hearing Decision may be considered untimely and dismissed. The request should include Petitioner's name, the docket number from page 1 of this Hearing Decision, an explanation of the specific reasons for the request, and any documents supporting the request. The request should be sent to MOAHR

- by email to MOAHR-BSD-Support@michigan.gov, **OR**
- by fax at (517) 763-0155, **OR**
- by mail addressed to
Michigan Office of Administrative Hearings and Rules
Rehearing/Reconsideration Request
P.O. Box 30639
Lansing Michigan 48909-8139

Documents sent via email are not secure and can be faxed or mailed to avoid any potential risks.

Via Electronic Mail:

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Interested Parties

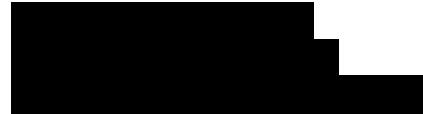
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Petitioner

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