



Date Mailed: June 23, 2025

Docket No.: 25-019156

Case No.: [REDACTED]

Petitioner: [REDACTED]

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এটি একটি গুরুত্বপূর্ণ আইনি ডকুমেন্ট। দয়া করে কেউ দস্তাবেজ অনুবাদ করুন।

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

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Docket No.: 25-019156

Case No.: [REDACTED]

Petitioner: [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 hearing was held via Microsoft Teams on June 16, 2025, the parties participated by telephone. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Alisha Young, overpayment establishment analyst.

ISSUE

The issue is whether MDHHS established against Petitioner a claim caused by agency error stemming from an alleged over-issuance (OI) of Food Assistance Program (FAP) benefits.

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 September [REDACTED] 2022, Petitioner applied for FAP benefits requesting FAP benefits only for her foster child, [REDACTED] [REDACTED] (hereinafter, "FostChild").
1. On September [REDACTED] 2022, MDHHS approved Petitioner for \$[REDACTED] in monthly FAP benefits based on a benefit group including only FostChild.
2. From March 2024 through January 2025, MDHHS issued Petitioner \$[REDACTED] in FAP benefits based on a benefit group that included only FostChild.
3. From March 2024 through January 2025, Petitioner received gross monthly wages ranging from \$[REDACTED] to [REDACTED]

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4. On January [REDACTED] 2025, Petitioner's case was referred to MDHHS's recoupment unit.
 5. On March [REDACTED] 2025, MDHHS calculated that Petitioner received an OI of \$ [REDACTED] in FAP benefits based on a "correct" benefit group that included Petitioner.
 6. On March [REDACTED] 2025, MDHHS sent Petitioner a Notice of Overissuance stating that Petitioner received an OI of \$ [REDACTED] in FAP benefits from March 2024 through January 2025 due to agency error.
 7. On May 12, 2025, Petitioner requested a hearing to dispute the alleged OI of \$ [REDACTED]
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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 requested a hearing to dispute MDHHS's efforts to establish a claim. Exhibit A, pp. 6-10. A Notice of Overissuance and related summary dated March [REDACTED] 2025 alleged that Petitioner received an OI of \$ [REDACTED] in FAP benefits from March 2024 through January 2025 due to agency error. Exhibit A, pp. 12-17.

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 FAP benefit 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.¹ Recipient claims may be caused by agency error, unintentional client error, and intentional program violations. 7 CFR 273.18(b).

¹ There was no evidence that FAP benefits issued to Petitioner during the alleged OI period were expunged.

If a household receives benefits, and MDHHS makes an error, the adult(s) in the household must repay the extra benefits they are not eligible for. BAM 705 (June 2024) p. 1. The benefits must be repaid even if there was no fraud. *Id.*

Agency-related OIs are restricted in how far MDHHS may go back to establish an OI. The overpayment period for agency errors can be for no more than the latest 12 months from the date of referral to the recoupment unit. BAM 705 (June 2024) p. 3. This 12 month or less period cannot include any months that occurred more than six years before A Notice of Overissuance is sent. *Id.*

An OI referral was made to the recoupment unit of MDHHS on January [REDACTED] 2025. Going back 12 months from January 2025 allows MDHHS to pursue an OI caused by agency error beginning January 2024. Thus, MDHHS is not barred in the present case from pursuing an OI against Petitioner beginning March 2024.

MDHHS alleged an OI was caused by improperly including only Petitioner's foster child in Petitioner's FAP benefit group. Petitioner applied for FAP benefits on September 7, 2022, reporting a household including only FostChild.² Exhibit A, pp. 56-63. MDHHS approved Petitioner for FAP benefits on September 12, 2022, based on a group including only FostChild and excluding Petitioner. Exhibit A, pp. 71-75. MDHHS continued FAP eligibility through the end of the alleged OI period based on a benefit group including only FostChild. Exhibit A, pp. 93-97 and 112-116.

In determining whether an OI occurred, MDHHS relied on its policy stating that the FAP group may choose to include or exclude a foster child whose foster parent is a group member. BEM 212 (January 2024) p. 1. If excluded, the foster child is not eligible to receive FAP benefits as a separate group, and the foster care payment is not income to the group. *Id.* In other words, foster children may or may not be in a benefit group with a foster parent, but foster children cannot be in a FAP benefit group by themselves. Thus, MDHHS erred by issuing FAP benefits to Petitioner based on a benefit group including only FostChild.

MDHHS presented FAP-OI budgets from March 2024 through January 2025 demonstrating how an OI was calculated. Exhibit A, pp. 20-44. Actual FAP issuances totaling \$[REDACTED] from March 2024 through January 2025 were taken from documentation of Petitioner's FAP issuance history. Exhibit A, pp. 18-19. The overpayment analyst credibly testified that the same group size, income, and expenses from original budgets were used other than including Petitioner as a group member and Petitioner's wages as income. TheWorkNumber documents listed gross monthly wages for Petitioner throughout the OI period ranging from \$[REDACTED] to [REDACTED] Exhibit A, pp 45-53. No errors

² Petitioner also requested Child Development and Care benefits.

to the budgets were alleged. Using the budget procedures set forth in BEM 556 for calculating FAP eligibility, an OI of \$[REDACTED] was calculated.³

Petitioner testified she does not receive foster care income despite being a foster parent.⁴ Petitioner also testified that a significant portion of the income she receives is paid towards FostChild's private school tuition; Petitioner explained that FostChild needs private school to be protected from bullies. Petitioner additionally testified that FostChild's parents are unfit and should not have custody of FostChild. Petitioner's testimony was sincere and supported that she is a wonderful foster parent; the evidence was not relevant in determining whether MDHHS may establish a claim.

The evidence established that Petitioner received an OI of \$[REDACTED] in FAP benefits from March 2024 through January 2025 due to agency-error. Thus, MDHHS established a recipient claim of \$[REDACTED] against Petitioner due to agency error.

Petitioner should be aware that claims 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 (January 2021) 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.⁵ *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 \$[REDACTED] for FAP benefits over-issued to Petitioner from March 2024 through January 2025 due to agency-error. The actions taken by MDHHS are **AFFIRMED**.

CG/dm


Christian Gardocki

³ Consideration was given to rejecting the calculation because OI budgets based on e benefit group including only Petitioner were not presented. This consideration as rejected because FostChild had no income. Thus, any FAP-OI budgets factoring only Petitioner would have resulted in an equal or higher OI due to excluding a group member who had no income.

⁴ Foster care income was not budgeted.

⁵ 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.

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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. 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. Requests MOAHR receives more than 30 days from the mailing date of this Hearing Decision may be considered untimely and dismissed.

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