



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
Christopher Seppanen
Executive Director

MIKE ZIMMER
DIRECTOR

[REDACTED]

Date Mailed: April 19, 2016
MAHS Docket No.: 15-006582
Agency No.: [REDACTED]
Petitioner: MDHHS
Respondent: [REDACTED] [REDACTED]

ADMINISTRATIVE LAW JUDGE: Jacquelyn A. McClinton

HEARING DECISION

Upon the request for a hearing by the Department of Health and Human Services (Department), this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9, and in accordance with Titles 7, 42 and 45 of the Code of Federal Regulation (CFR), particularly 7 CFR 273.16 and 45 CFR 235.110; and with Mich Admin Code, R 400.3130 and 400.3178. After due notice, a telephone hearing was held on April 11, 2016, from Detroit, Michigan. The Department was represented by [REDACTED], Recoupment Specialist and [REDACTED], Regulation Agent of the Office of Inspector General (OIG). The Respondent was represented by Respondent.

ISSUE

Did Respondent receive an overissuance (OI) of 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. Respondent was a recipient of FAP benefits from the Department.
2. The Department alleges Respondent received a FAP OI during the period [REDACTED], due to Respondent's error.
3. The Department alleges that Respondent received \$2,007.00 OI that is still due and owing to the Department.

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), and Department of Health and Human Services Reference Tables Manual (RFT).

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 to .3015.

Additionally, The amount of the OI is the benefit amount the client actually received minus the amount the client was eligible to receive. BAM 715 (December 2011), p. 5; BAM 705 (December 2011) p 5. The Department alleged that Respondent had been overissued benefits due to unreported income of her daughter [REDACTED]. The Department further alleged that the OI period was from [REDACTED]. Respondent testified that [REDACTED] moved out of the home at the end of 2011. Respondent further testified that she reported both [REDACTED] exit from the home and that her other daughter [REDACTED] who was pregnant at the time, had moved into the home.

The Department acknowledged receipt of the reported change indicating that [REDACTED] moved into the home but did not have any record of a change stating that [REDACTED] had moved out of the home. Respondent's testimony was consistent throughout the hearing and therefore is found credible. The budget presented by the Department to establish the debt was based upon unreported income. It is found that [REDACTED] did not reside in the home during the OI period and therefore, her income should not have been calculated in any potential overissuance.

The Department testified that Petitioner received FAP benefits based upon a group size of four. Given that Petitioner's testimony has been accepted as true, it appears that she was overissued benefits as she received benefits based upon an increased group size. As such, it is found that the Department has failed to establish the correct overissuance amount and has therefore failed to establish the debt. However, the Department is not precluded from bringing another debt collection action based upon the testimony presented by Respondent at the hearing.

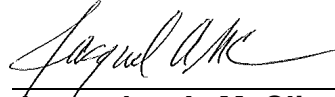
The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that the Department did not establish a FAP benefit OI to Respondent totaling \$2,007.00.

DECISION AND ORDER

Accordingly, the Department is **REVERSED**.

The Department has failed to establish the debt and therefore recoupment is **DENIED**.

JM/hw



Jacquelyn A. McClinton

Administrative Law Judge

for Nick Lyon, Director

Department of Health and Human Services

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 Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS 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. MAHS will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088; Attention: MAHS Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

DHHS

[REDACTED]

[REDACTED]

Respondent

[REDACTED]