



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: May 20, 2016
MAHS Docket No.: 15-008515
Agency No.: [REDACTED]
Petitioner: [REDACTED]
Respondent: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 three-way hearing was held on [REDACTED], from Detroit, Michigan. The Department was represented by [REDACTED], Recoupment Specialist. The Respondent did not appear.

ISSUE

Did Respondent receive an overissuance (OI) of Food Assistance Program (FAP) and Child Development and Care (CDC) 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 both FAP and CDC benefits from the Department.
2. The Department alleges Respondent received an FAP OI during the period [REDACTED], through [REDACTED], due to **Respondent's (client error)**. Exhibit 1, p.10.
3. The Department alleges that Respondent received [REDACTED] OI that is still due and owing to the Department. Exhibit 1, p.10.

4. The Department alleges that Respondent received a CDC OI due to **client error** during the period [REDACTED], through [REDACTED]. Exhibit 1, pp. 2-3.
5. The Department alleges that Respondent received a CDC OI of \$ [REDACTED] that is still due and owing to the Department.
6. The Department sent the Respondent Notice of Overissuances for FAP and CDC on [REDACTED]. Exhibit 1, pp. 2-9.
7. The Department notified the Petitioner of her responsibility to report when her income exceeded the Simplified Reporting Limit for FAP on [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; and [REDACTED]. Exhibit 1, pp. 41-55.
8. The Petitioner was employed during the period in question and had a group size of three (3) persons.
9. The Petitioner submitted a timely hearing request on [REDACTED].

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.

The Child Development and Care (CDC) program is established by Titles IV-A, IV-E and XX of the Social Security Act, 42 USC 601-619, 670-679c, and 1397-1397m-5; the Child Care and Development Block Grant of 1990, PL 101-508, 42 USC 9858 to 9858q; and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193. The program is implemented by 45 CFR 98.1-99.33. The Department administers the program pursuant to MCL 400.10 and provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001-.5020.

In this case, the Department seeks recoupment of FAP and CDC benefits, which it alleges were over issued to the Respondent due to the Respondent's failure to report increases in income, which placed the Respondent over the Simplified Reporting Limit for FAP benefits and CDC income limit for the months in question. The Department

discovered the overissuance when a Wage Match was generated and income was reported and a Wage Match Client Notice was generated on [REDACTED]. A Wage Verification was provided with paystubs attached from the Respondent's employer. Exhibit 1, pp. 57-75. The Respondent also received child support during the period which was not reported. Exhibit 1.

Department policy states that DHHS requests a debt collection hearing when the grantee of an inactive program requests a hearing after receiving the DHS-4358B, Agency and Client Error Information and Repayment Agreement. BAM 725 (July 2014), pp. 16-17. Active recipients are afforded their hearing rights automatically, but DHHS must request hearings when the program is inactive. BAM 725, p. 17, and see also BAM 715 (July 2014), pp. 11-12.

Based on the above information, Respondent was a recipient of CDC benefits from the Department. The overissuance period for CDC covers [REDACTED], through [REDACTED]. Thus, the Department had to request a debt collection hearing regarding her CDC benefits because she is no longer an active recipient of CDC benefits. See BAM 725, pp. 16-17.

CDC Debt Collection

When a client group receives more benefits than they are entitled to receive, the Department must attempt to recoup the overissuance (OI). BAM 700, p. 1. The amount of the OI is the benefit amount the group or provider actually received minus the amount the group was eligible to receive. BAM 715, p. 6.

A client/CDC provider error OI occurs when the client received more benefits than they were entitled to because the client/CDC provider gave incorrect or incomplete information to the department. BAM 715, p. 1.

In the present case, the Department alleges that Respondent received an OI of her CDC benefits based on her income exceeding the CDC income limit of \$ [REDACTED] RFT 270 (December 1, 2014), p. 1. The CDC gross monthly income limit was the same throughout the OI period. Thus, the Department argued that Respondent continued to receive CDC benefits even though she was ineligible for them. Department seeks a CDC OI in the amount to \$ [REDACTED] for the period of [REDACTED], [REDACTED] to [REDACTED].

Additionally, clients must report changes in circumstance that potentially affect eligibility or benefit amount. BAM 105 (January 2009; April 2009; July 2009; October 2009; and January 2010), p. 7. Changes must be reported within 10 days of receiving the first payment reflecting the change. BAM 105, p. 7.

Income reporting requirements are limited to the following:

- Earned income:
 - Starting or stopping employment.
 - Changing employers.
 - Change in rate of pay.
 - Change in work hours of more than five hours per week that is expected to continue for more than one month.

BAM 105, p. 7.

Other changes must be reported within 10 days after the client is aware of them. BAM 105, p. 7. These include, but are not limited to, changes in daycare needs or providers. BAM 105, pp. 7-8.

Department policy states the overissuance period begins the first month (or pay period for CDC) benefit issuance exceeds the amount allowed by policy or 72 months before the date it was referred to the RS, whichever is later. BAM 715, p. 4. To determine the first month of the overissuance period (for overissuances 11/97 or later) the Department allows time for: (i) the client reporting period, per BAM 105; (ii) the full standard of promptness (SOP) for change processing, per BAM 220; and (iii) the full negative action suspense period; see BAM 220, Effective Date of Change. BAM 715, p. 5. Based on the above policy, the Department would apply the 10-day client reporting period, the 10-day processing period, and the 12-day negative action suspense period. BAM 715, p. 4.

The CDC budgets for the months in question, during the period [REDACTED], through [REDACTED], were reviewed to determine whether the Department correctly determined the gross income. The income was determined based upon the paystubs provided by the Respondent's employer. After a review of the budgets, it is determined that in all months the Respondent's gross income exceeded the CDC gross lime limit of \$ [REDACTED]. Therefore, it is determined that the Department correctly calculated the OI; and the Respondent did receive an OI of \$ [REDACTED]. Exhibit 1, pp. 21-40.

Food Assistance Debt Collection

Simplified Reporting (SR) FAP groups are required to report to the Department only when the group's **actual** gross monthly income (not converted) exceeds the SR income limit for their group size. BAM 200 (December 2013), p. 1. If the total gross income exceeds the group's SR income limit, the group must report this change to the Department by the 10th day of the following month, or the next business day if the 10th day falls on a weekend or holiday. BAM 200, p. 1. The only client error overissuances related to simplified reporting that can occur groups in SR are when the group fails to report that income exceeds the group's SR income limit, or the client voluntarily reports inaccurate information. BAM 200, p. 4.

Respondent had a FAP group of three (3) members. For a three-person FAP group, the SR income limit was \$ [REDACTED] for [REDACTED] and [REDACTED] and \$ [REDACTED] for [REDACTED]. The Respondent's unreported income for [REDACTED] was \$ [REDACTED].

Exhibit 1, pp. 12–13. The Respondent's unreported earned income for [REDACTED] was \$ [REDACTED] Exhibit 1, pp. 14–15. For [REDACTED], the Respondent's unreported earned income was \$ [REDACTED] Exhibit 1, pp. 16–17.

The FAP budgets were reviewed at the hearing; and it was determined that the Respondent's income, which was unreported for the three months in question exceeded the SR limit and the FAP net income limit, and thus, the Respondent was not entitled to FAP for those months and received an overissuance because the income was not reported. BAM 200 (December 2014). SR groups are required to report **only** when the group's actual gross monthly income (**not** converted) exceeds the SR income limit for their group size; no other change reporting is required. BAM 200, p. 1. In addition the Respondent was advised on numerous occasions about her responsibility to report when her income exceeded the SR limit and failed to do so. The Department Notified the Petitioner of her responsibility to report when her income exceeded the SR Limit for FAP when it sent the Respondent Notices of Case Action on [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; and [REDACTED]. Exhibit 1, pp. 41-55.

Based on the foregoing information and evidence, the Department did establish a CDC benefit OI to Respondent. A client error is present in this situation because the evidence presented that Respondent failed to report that her income exceeded the CDC income limit which resulted in Respondent not being eligible for CDC during the periods of over issuance in question.

Based upon the foregoing information and evidence, the Department did establish an FAP OI to Respondent. The client error is present in the situation because the evidence presented that respondent failed to report that her income exceeded the simplified reporting income limit and resulted in respondent not being eligible for FAP during the periods of OI in question.

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that the Department **did** establish a CDC benefit OI to Respondent totaling \$ [REDACTED]

The Administrative Law Judge based upon the Findings of Fact and Conclusions of Law, finds that the Department did establish an FAP benefit OI to Respondent totaling \$ [REDACTED]

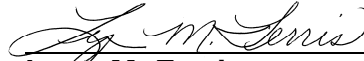
DECISION AND ORDER

Accordingly, the Department is **AFFIRMED**.

1. The Department is **ORDERED** to initiate collection procedures for a CDC overissuance of [REDACTED] in accordance with Department policy.

2. The Department is ORDERED to initiate collection procedures for an FAP overissuance of [REDACTED] in accordance with Department policy.

LMF/jaf



Lynn M. Ferris
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]

Respondent

[REDACTED]

cc:

[REDACTED]