



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: April 25, 2016
MAHS Docket No.: 15-009546
Agency No.: [REDACTED]
Petitioner:
Respondent: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Kevin Scully

HEARING DECISION

Following Respondent'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 After due notice, telephone hearing was held on April 14, 2016, from Lansing, Michigan. Participants on behalf of the Department of Health and Human Services (Department) included [REDACTED] (Recoupment Specialist).

Participants on behalf of Respondent included [REDACTED].

ISSUE

Did the Department properly determine that the Respondent received an overissuance 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 May 18, 2012, the Department received the Respondent's application for Food Assistance Program (FAP) benefits. Exhibit A, pp 23-15.
2. The Respondent began employment as a bartender on March 1, 2013, and was employed through August 26, 2013. Exhibit A, pp 12-13.
3. The Respondent received earned income from other employment from May 10, 2013, through September 13, 2013. Exhibit A, pp 16-18.
4. The Respondent received a \$ [REDACTED] allotment of Food Assistance Program (FAP) benefits in August of 2013. Exhibit A, p 11.

5. The Respondent would not have been eligible for Food Assistance Program (FAP) benefits in August of 2013, if she had reported all her income to the Department in a timely manner. Exhibit A, p 8.
6. On June 4, 2015, the Department sent the Respondent a Notice of Overissuance (DHS-4358) giving notice of its intent to recoup a [REDACTED] overissuance of Food Assistance Program (FAP) benefits as the result of client error. Exhibit A, p 4.
7. On June 15, 2015, the Department received the Respondent's request for a hearing. Exhibit A, p 2.

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.

When a client group receives more benefits than it is entitled to receive, the Department must attempt to recoup the overissuance. An agency error is caused by incorrect action (including delayed or no action) by Department staff or Department processes. A client error occurs when the client received more benefits than they were entitled to because the client gave incorrect or incomplete information to the department. Client and agency errors are not pursued if the estimated amount is less than \$250 per program. Department of Health and Human Services Bridges Administrative Manual (BAM) 700 (May 1, 2014), pp 1-9.

Overissuance balances on inactive cases must be repaid by lump-sum or monthly cash payments unless collection is suspended. Department of Health and Human Services Bridges Administrative Manual (BAM) 725 (July 1, 2014), p 8.

On May 18, 2012, the Department received the Respondent's FAP application. The Respondent received a \$[REDACTED] allotment of FAP benefits for August of 2013. The Respondent was employed and receiving earned income during that month, but there is no evidence that the Respondent had reported to the Department that her income had increased to the point that it exceeded the gross monthly limit for a group of four. Department of Health and Human Services Reference Table Manual (RFT) 250 (October 1, 2012). If the Department had been notified that the Respondent's income

had increased, she would not have been eligible for any FAP benefits as of August 1, 2013.

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that the Department has establish a Food Assistance Program (FAP) benefit overissuance to Respondent totaling \$ [REDACTED]

DECISION AND ORDER

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

The Department is ORDERED to initiate collection procedures for a \$ [REDACTED] overissuance in accordance with Department policy.

KS/las



Kevin Scully
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

Respondent

[REDACTED]

DHHS

[REDACTED]

[REDACTED]