



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 24, 2016
MAHS Docket No.: 15-018432
Agency No.: [REDACTED]
Petitioner:
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 telephone hearing was held on [REDACTED], from Detroit, Michigan. The Department was represented by [REDACTED], Recoupment Specialist. Respondent did not appear.

This matter having been initiated by the Department and due notice having been provided to Respondent, the hearing was held in Respondent's absence in accordance with Department of Health and Human Services Bridges Administrative Manual (BAM) 725 (July 2014), pp. 16–17.

ISSUE

Did Respondent receive an 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. Respondent was a recipient of FAP benefits from the Department.
2. The Department alleges Respondent received an FAP OI during the period [REDACTED], through [REDACTED], due to **Respondent's** error.

3. The Department alleges that Respondent received \$ [REDACTED] OI that is still due and owing to the Department.
4. The Respondent was sent a Change Report advising her of her responsibility to report changes within 10 days on [REDACTED]. Exhibit 1, pp. 24–25.
5. The Respondent did not report income from employment from Spherion on her application for State Emergency Relief (SRA) dated [REDACTED]. Exhibit 1, pp. 26-28 and Exhibit 1, pp. 32-58.
6. The Department sent the Respondent a Notice of Overissuance for FAP on [REDACTED]. Exhibit 1, pp. 2-6.
7. The Respondent requested a hearing 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.

Additionally, in this case, the Department seeks to recoup FAP benefits issued to the Respondent, which it alleges the Respondent was not entitled to receive due to income from employment which was not reported by the Respondent. The Respondent's failure to report the earned income resulted in an OI of FAP benefits in the amount of \$ [REDACTED]. The OI began [REDACTED], through [REDACTED]. The Department discovered the OI when it received a Wage Match Client Notice and a Wage Verification of employment completed by Respondent's employer. Exhibit 1, pp. 29–31.

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.

The OI amount is the benefit amount the group or provider actually received minus the amount the group was eligible to receive. In order to establish a client OI, the amount must

be more than \$ [REDACTED] BAM 715 (January 1, 2016), p. 6. A client error, which is alleged in the instant matter, exists when the client's timely request for hearing results in the suspension of the Michigan Department of Health and Human Services (MDHHS) action and any of the following: the hearing decision upholds the MDHHS action, the client withdraws the hearing request, or the client fails to appear for the hearing, which is not rescheduled. In this case, client error results as a result of the issuance of this Hearing Decision; and the client failing to appear for the hearing she requested. BAM 715, p. 1.

In this case, the evidence presented clearly demonstrated that the Respondent failed to report employment, which began [REDACTED], Exhibit 1, pp. 26-28. The Department presented OI budgets for the months of [REDACTED] through [REDACTED]. The budgets were reviewed at the hearing, and the unreported earned income used to calculate the OI was cross-referenced with the employer Wage Verification and the income reported by the Work Number. Based on this review, the Department clearly established that for the months in question, the Respondent received an OI in the amount of \$ [REDACTED] Exhibit 1, pp. 6-7. The Department also established that the Respondent was aware that she was required to report changes within 10 days of the change when it issued a Change Report to Respondent.

Clients must report changes in circumstances that potentially affect eligibility or benefit amount. BAM 105 (April 1, 2016), pp. 11-12. Changes must be reported within 10 days of receiving the first payment reflecting the change. BAM 105, p. 11.

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. 11.

Other changes must be reported within 10 days after the client is aware of them. BAM 105, pp. 11-12. These include, but are not limited to, changes in daycare needs or providers. BAM 105, pp. 7-8.

The Department also applied the requirements found in Department policy in BAM 715 to establish the period of OI. Department policy states the OI 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 OI 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 Department properly determined the OI period.


The Administrative Law Judge, based upon the above 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**.

The Department is **ORDERED** to initiate collection procedures for a \$ [REDACTED] OI 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]