



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: March 9, 2016
MAHS Docket No.: 15-020269
Agency No.: [REDACTED]
Petitioner: MDHHS
Respondent: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

HEARING DECISION

Upon the request for a hearing by the Michigan Department of Health and Human Services (MDHHS), 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 March 3, 2016, from Detroit, Michigan. MDHHS was represented by [REDACTED], recoupment specialist. [REDACTED], hearing facilitator, testified on behalf of MDHHS.

Respondent did not appear. This matter having been initiated by MDHHS and due notice having been provided to Respondent, the hearing was held in Respondent's absence.

ISSUE

The issue is whether MDHHS established a debt against Respondent based on 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. Respondent was an ongoing FAP recipient.
2. From September 2011 through August 2012, Respondent received \$8,141 in FAP benefits, in part, exclusion of Respondent's employment income.

3. After factoring Respondent's actual employment income, Respondent was eligible to receive \$1,123 in FAP benefits from September 2011 through August 2012.
4. On [REDACTED], MDHHS mailed Respondent a Notice of Overissuance which alleged Respondent received an overissuance of \$7,018 in FAP benefits, due to client error, over the period from September 2011 through August 2012.
5. On [REDACTED] Respondent requested a hearing to dispute the overissuance.
6. On [REDACTED], the Michigan Administrative Hearing System (MAHS) received a hearing request from MDHHS to establish a debt against Respondent.

CONCLUSIONS OF LAW

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. MDHHS (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. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

MDHHS requested a debt collection hearing against Respondent. A debt collection hearing is appropriate when a client receives an overissuance of benefits.

When the client group or CDC provider receives more benefits than entitled to receive, Michigan Department of Health and Human Services (MDHHS) must attempt to recoup the overissuance. *Id.*, p. 1. Repayment of an overissuance is the responsibility of:

- Anyone who was an eligible, disqualified, or other adult in the program group at the time the overissuance occurred.
- A FAP-authorized representative if they had any part in creating the FAP overissuance

Id., p. 1.

Recoupment policies and procedures vary by program and overissuance type. BAM 715 (October 2015), p. 1. When a potential overissuance is discovered, [MDHHS is to] do all of the following:

1. Take immediate action to correct the current benefits; see BAM 220, Case Actions, for change processing requirements.
2. Obtain initial evidence that an overissuance potentially exists.
3. Determine if it was caused by department, provider or client actions. [and]
4. Refer all client errors to the RS [recoupment specialist] within 60 days of suspecting or if a suspected overissuance exists

Id., p. 2

Within 60 days of receiving the referral, the RS must... determine if an overissuance actually occurred [and] determine the type. *Id.*, p. 3. Within 90 days of determining an overissuance occurred, the RS must:

- Obtain all evidence needed to establish it.
- Calculate the amount.
- Establish the discovery date.
- Send a DHS-4358A, B, C & D to the client.
- Enter the FIP, SDA, CDC or FAP overissuance on the Benefit Recovery System (BRS).
- Refer to OIG for investigation if IPV is suspected. [and]
- Send a DHS-4701A, Overissuance Referral Disposition, to the specialist explaining the final disposition.

Overissuances may be pursued if they are client caused or agency caused. [For FAP benefits,] client and Agency errors are not pursued if the estimated amount is less than \$250 per program. BAM 700 (October 2015), p. 9. The alleged overissuance of the present case exceeds \$250; therefore, it is pursuable.

MDHHS 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 (October 2015), pp. 16-17. Active recipients are afforded their hearing rights automatically, but MDHHS must request hearings when the program is inactive; see BAM 705 or 715, HEARING REQUESTED, Inactive Cases. *Id.*, p. 17. It is presumed that Respondent is an inactive recipient based on MDHHS' pursuit of a debt collection hearing.

MDHHS presented a Notice of Overissuance Exhibit 1, p. 6) dated [REDACTED]. MDHHS alleged Respondent received \$7,018 in over-issued FAP benefits due to client error. The alleged overissuance period was from September 2011 through August 2012.

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. *Id.*, p. 4. The amount of the overissuance is the benefit amount the group or provider actually received minus the amount the group was eligible to receive. *Id.*, p. 6. If improper reporting or budgeting of income caused the overissuance, [MDHHS is to] use actual income for that income source. *Id.*, p. 9. For client error overissuances due, at least in part, to failure to report earnings, do not allow the 20 percent earned income deduction on the unreported earnings. *Id.*, p. 8.

MDHHS alleged overissuance of FAP benefits because of Respondent's failure to report earned income. Respondent's hearing request alleged she "turned in all earned income" information. MDHHS testimony conceded Respondent submitted income information, however, MDHHS alleged Respondent did not do so until she submitted a Redetermination (Exhibit 1, pp. 100-103) signed by Respondent on [REDACTED]. By

the time MDHHS received Respondent's documentation, Respondent received several months of FAP benefits without earned income being factored.

MDHHS presented Eligibility Summaries (Exhibit 1, pp. 37-50) for Respondent. The summaries list the benefits issued to clients in past months. The summaries verified Respondent received \$668 for the months from September 2011 through July 2012. In August 2012, Respondent received \$793 in FAP benefits. The summaries verified Respondent received \$8,141 in FAP benefits over the alleged overissuance period.

MDHHS presented various pay documents from Respondent's employer during the time of the overissuance. MDHHS presented a Verification of Employment (Exhibit 1, pp. 52-53, 114-115) signed [REDACTED]. The document indicated Respondent began employment on [REDACTED] and received her first pay on [REDACTED]. Numerous documents verified Respondent's pay during the overissuance period (see Exhibit 1, pp. 54-84, 104-110, 118-136, 143-177).

MDHHS presented FAP overissuance budgets for each of the months from the alleged overissuance periods (Exhibit 1, pp. 13-36). The budgets appeared to accurately reflect Respondent's earned income. The budgets verified Respondent was eligible to receive a total of \$1,123 during the alleged overissuance period. During the alleged overissuance period, the difference between FAP issuances made to Respondent and the benefits Respondent should have received is \$7,018.

Respondent did not appear for the hearing and presented no evidence verifying when she reported earned income information to MDHHS. Respondent's hearing request was silent as to the date of reporting. Respondent did not appear for the hearing to testify when she reported the information. It is known Respondent received over a year of FAP benefits without earned income being factored.

Based on presented evidence, the overissuance of FAP benefits occurred due to Respondent's failure to report employment income. It is further found Respondent's failure to timely report income resulted in an overissuance of \$7,018 in FAP benefits over the period from September 2011 through August 2012. Accordingly, MDHHS established a debt against Respondent for the amount of \$7,018.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS established a debt against Respondent for \$7,018 based on an overissuance of FAP benefits for the period from September 2011 through August 2012.

The actions taken by MDHHS are **AFFIRMED**.

CG/hw



Christian Gardocki
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]