



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 30, 2016  
MAHS Docket No.: 15-024593  
Agency No.: [REDACTED]  
Petitioner: [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 March 9, 2016, from Detroit, Michigan. The Department was represented by [REDACTED], Hearing Facilitator and [REDACTED], Recoupment Specialist. The Respondent was represented by Respondent.

### **ISSUE**

Did Respondent receive an over-issuance (OI) of FAP benefits in the amount of \$7,091.00?

### **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 \$7,091.00 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, Department policy states that when the client group or CDC provider receives more benefits than entitled to receive, DHS must attempt to recoup the overissuance (OI). See BAM 725 (October 2010), p. 1.

Petitioner submitted a Redetermination which was received by the Department on [REDACTED]. Petitioner reported that he was working at the time he submitted the Redetermination. The report of work caused the Department to investigate exactly when Petitioner began his work. The Department learned that Petitioner was employed with Ford Motor Company. The Department obtained both actual earnings and quarterly earnings relating to Petitioner's employment.

The Department determined that the OI period began on [REDACTED] and ended on [REDACTED]. The Department further determined that the OI amount was \$7,091.00. The Department submitted budgets for each month during the OI period, except August 2012. The Department testified that it used the quarterly amounts in calculating the OI amount. The amounts used by the Department were as follows:

2<sup>nd</sup> Quarter of 2012 - \$8,831.20

3<sup>rd</sup> Quarter of 2012 - \$11,708.90

4<sup>th</sup> Quarter of 2012 - 13,587.31

1<sup>st</sup> Quarter of 2013 - \$15,096.97

Under Department policy, if improper reporting or budgeting of income caused the OI, the Department is to use actual income for the OI month for that income source. See BAM 715 (December 2011), p. 6. In this case, the Department used the quarterly income when actual income was available. Notwithstanding this, the budgets presented by the Department showed an earned income amount of \$2,790.00. Even if utilizing the quarterly amounts was in accordance with Department policy, the proper earned income amount could not have remained the same for each month during the OI period given the different quarterly amounts attested to by the Department. It is therefore found that Department has failed to properly calculate the OI amount and as such, has failed to establish that an OI exists.

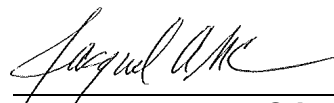
The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that the Department did not establish a FAP benefit OI to Respondent totaling \$7,091.00.

**DECISION AND ORDER**

Accordingly, the Department is **REVERSED**.

The Department is PRECLUDED from initiating collection procedures in the amount of \$7,091.00 for the period of [REDACTED] relating to the receipt of FAP benefits.

JM/hw



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**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]

**Petitioner**

[REDACTED]