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GOVERNOR

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

MIKE ZIMMER
DIRECTOR

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Date Mailed: March 18, 2016
MAHS Docket No.: 15-005482
Agency No.: ██████████
Petitioner: Department of Health and
Human Services
Respondent: ██████████

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 7, 2016, from Detroit, Michigan. The Department was represented by ██████ ██████, Recoupment Specialist, who participated via three-way telephone conference, and ██████████, Lead Eligibility Specialist. Respondent appeared and represented herself. .

ISSUE

Did Respondent receive an over-issuance (OI) of Food Assistance Program (FAP) benefits totaling \$2325 for the period July 1, 2012 to March 31, 2013?

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. Respondent had a FAP simplified reporting (SR) group with four members.
3. On March 30, 2015, the Department sent Respondent a Notice of Overissuance notifying her that she was overissued FAP benefits during the period July 1, 2012, through March 31, 2013, due to client error (Exhibit A, pp. 33-37).

4. The Department alleges that Respondent received a \$2325 OI that is still due and owing to the Department.
5. On April 7, 2015, the Department received Respondent's request for hearing disputing the OI (Exhibit A, p. 3).

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.

When a client group receives more benefits than entitled to receive, the Department must attempt to recoup the OI. BAM 700 (October 2015), p. 1. The amount of the OI is the benefit amount the client actually received minus the amount the client was eligible to receive. BAM 700, p. 1; BAM 715 (October 2015), p. 6.

In this case, the Department alleges that Respondent failed to report her husband's increased employment income, contrary to the requirements for SR groups and, when her husband's actual earned income is taken into consideration in the calculation of her FAP benefits for the period July 1, 2012 to March 31, 2013, she was not eligible for any of the \$2325 in FAP benefits issued to her during this period. The April 17, 2012 and May 8, 2012 Notices of Case Action sent to Respondent by the Department advised her that she is a SR group. FAP groups with countable earnings are assigned to the SR category. BAM 200 (December 2011), p. 1. 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. Prior to October 2012, simplified reporting groups with four members were required to report increased income only when the group's actual gross monthly income exceeded \$2422. BAM 200 (January 2011), p. 1; RFT 250 (October 2011), p. 1. Beginning October 1, 2012, the SR income limit increased to \$2498. RFT 250 (October 2012), p. 1.

BAM 200, p. 4, provides that, if the group reports that their gross income exceeds the SR income limit but they remain eligible for FAP benefits, the group will be advised they are not required to report any other changes in income until their next redetermination/semi-annual contact. In this case, the April 17, 2012 Notice of Case Action shows that the Department was budgeting \$3160 in earned income for the

household and the May 8, 2012 Notice of Case Action shows that the Department was budgeting \$2469 in earned income (Exhibit A, pp. 4-8). Therefore, the income being budgeted exceeded the \$2422 SR income limit applicable at the time. Despite the fact that her household's earned income exceeded the applicable SR income limit, Respondent was eligible for FAP benefits. It follows that, despite the statement in the Notice that Respondent was required to report gross income in excess of the SR income limit, because she was found eligible for FAP benefits despite having income over the SR limit, she would not be required to report any changes until her next redetermination/semi-annual contact. In this case, the Department sent Respondent a Semi-Annual Contact Report on September 4, 2012 to affect her ongoing benefits beginning November 1, 2012 (Exhibit A, pp. 9-10). Because Respondent was not required to report income change until the Semi-Annual was processed, the Department failed to establish that it was entitled to recoup FAP benefits issued to Respondent between July 1, 2012 and October 31, 2012.

In the Semi-Annual Contact Report submitted to the Department on September 11, 2015, Respondent was advised that the monthly gross income used in her FAP budget was \$2469 and was asked whether the household gross earned income changed by more than \$100 from this amount. Respondent checked "no." (Exhibit A, pp. 9-10). However, the Verification of Employment Respondent's husband's employer completed showed that, contrary to Respondent's position, the household had received in excess of \$2569 for each month since June 2012. If the client's gross income has changed by more than \$100 from the pre-filled amount on the form, the client must return verification of the past 30 days of earnings with the completed semi-annual contact report. BAM 210 (October 2012), p. 8. Because Respondent did not properly identify the household's income and return required verifications, any resulting overissuance of FAP benefits between November 1, 2012 and March 31, 2013 is due to client error. See BAM 700, p. 6.

In support of the FAP OI for the months from November 1, 2012 to March 31, 2013, the Department presented FAP OI budgets for each month showing the amount of benefits Respondent was eligible to receive if her husband's actual employment income for the month had been considered in calculating her FAP benefit amount. A review of the budgets shows that the Department properly considered Respondent's husband's actual income for each month in accordance with policy. BAM 715, p. 8. Because Respondent did not timely report the income, she is not eligible for an earned income deduction in any calculation of the household's net income. BAM 715, p. 8.

The Department alleged that Respondent's household exceeded the gross income limit for each month between November 2012 and March 2013. Although the Department's FAP OI budgets show that the gross income limit is \$3676, during the period at issue the gross income limit for a four-member FAP group was \$3842. RFT 250 (October 2012). Respondent's husband's income exceeded this limit for November 2012, December 2012, January 2013 and March 2013 but not for February 2013 (Exhibit A, pp. 11-13, 22-31). Therefore, the Department established that Respondent was not

eligible for any of the FAP benefits issued to her in November 2012, December 2012, January 2013 and March 2013. The Department's evidence shows that it issued \$261 in monthly FAP benefits to Respondent in each of those months, resulting in a FAP OI of \$1044.

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that the Department **did** establish a FAP benefit OI to Respondent totaling \$1044.

DECISION AND ORDER

Accordingly, the Department is AFFIRMED in the reduced amount of \$1044.

The Department is ORDERED to reduce the FAP OI to \$1044 and initiate collection procedures for a \$1044 OI in accordance with Department policy.



ACE/tlf

Alice C. Elkin

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]
[REDACTED]
[REDACTED]
[REDACTED]

Respondent

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

via electronic mail:

[REDACTED]
[REDACTED]
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[REDACTED]