



RICK SNYDER
GOVERNOR

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

MIKE ZIMMER
DIRECTOR



Date Mailed: April 19, 2016
MAHS Docket No.: 15-014207
Agency No.: [REDACTED]
Petitioner: MDHHS
Respondent: [REDACTED]

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

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 three-way telephone hearing was held on April 14, 2016, from Lansing, Michigan. The Department was represented by [REDACTED], Recoupment Specialist (RS). Respondent represented himself.

ISSUE

Did the Respondent receive an overissuance (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. [Exhibit 1, pp. 18-21].
2. The Department alleges Respondent received an OI of FAP benefits during the period of January 1, 2015 through February 28, 2015, due to Department's error. [Exh. 1, pp. 23-27].
3. The Department contends that the alleged FAP OI was discovered on July 7, 2015ar. [Exh. 1, pp. 15-17].

4. The Department alleges that Respondent received a \$ [REDACTED] FAP OI that is still due and owing to the Department. [Exh. 1, pp. 23-27].
5. On July 28, 2015, the Department mailed Respondent a Notice of Overissuance (DHS-4358-A), Overissuance Summary (DHS-4358-A), and Department and Client Error Information and Repayment Agreement (DHS-4358-C). [Exh. 1, pp. 23-27].
6. On August 6, 2015, Respondent returned a completed Hearing Request for Overissuance or Recoupment Action (DHS-4358-D) form, which contained a request for hearing to dispute the proposed action. [Exh. 1, p. 3].
7. On August 17, 2015, the Department forwarded the matter to the Michigan Administrative Hearing System (MAHS).
8. On March 16, 2015, the MAHS issued a Notice of Debt Collection Hearing to all interested parties which scheduled a telephone hearing for April 14, 2016.
9. The telephone hearing occurred on April 14, 2016.
10. During the hearing, the Department's RS testified that the Department incorrectly budgeted Respondent's income from employment using his first payment of \$ [REDACTED]. According to the RS, the Department used this \$ [REDACTED] payment from Respondent's first week of work to calculate his prospective monthly income for FAP purposes. Respondent, on the other hand, testified that his first day of work was also his only day of work during that pay period, which resulted in a \$ [REDACTED] paycheck. Respondent states that he did not do anything wrong and does not believe he should be forced to repay the OI as it was the Department's error.
11. The Administrative Law Judge has carefully considered and weighed the testimony and other evidence in the record.
12. Respondent did receive an OI of FAP benefits issued by the Department.
13. The FAP OI was due to agency error.
14. The OI amount was [REDACTED].
15. The OI period was from January 1, 2015 to February 28, 2015.

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 it is entitled to receive, MDHHS must attempt to recoup the overissuance. BAM 700 (5-1-2014), p. 1. An **overissuance** is the amount of benefits issued to the client group or CDC provider in excess of what it was eligible to receive. BAM 700, p. 1. **Recoupment** is a MDHHS action to identify and recover a benefit overissuance. BAM 700, p. 2.

BAM 700 indicates that the three types of overissuances are agency error, client error and CDC provider error. BAM 700, pp. 4-8. An **agency error** is caused by incorrect action (including delayed or no action) by MDHHS staff or department processes. BAM 700, p. 4. [Emphasis added]. For FIP, SDA, CDC and FAP, agency errors are not pursued if the estimated amount is less than \$250 per program. BAM 700, p. 5. 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. BAM 700, p. 6. [Emphasis added]. A client error also exists when the client's timely request for a hearing result in deletion of a MDHHS action, **and any of the following occurred:** (1) the hearing request is later withdrawn; (2) MAHS denies the hearing request; (3) the client or administrative hearing representative fails to appear for the hearing and MAHS gives MDHHS written instructions to proceed; and (4) the hearing decision upholds the department's actions. BAM 700, p. 6. [Emphasis in original]. A CDC **provider error** is an unintentional or inadvertent error made by the provider who reported incorrect information or failed to report information to the department. BAM 700, p. 7. [Emphasis in original].

For FIP, SDA, CDC and FAP, client and agency errors are not pursued if the estimated amount is less than \$250 per program. BAM 700, p. 9.

Recoupment policies and procedures vary by program and overissuance type. BAM 705 (7-1-2014) explains agency error processing and establishment. BAM 710 (7-1-2013) explains recoupment of MA overissuances. BAM 715 (7-1-2014) explains client error overissuance processing and establishment.

BAM 725 (7-1-2014) governs collection actions and explains repayment responsibility, Benefit Recovery System data management, and the various collection processes used by MDHHS.

For all programs, 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. BAM 725, p. 1.

The rules for active and inactive programs are different. All cases that contain an adult member from the original overissuance group and are **active** for the program in which the overissuance occurred are liable for the overissuance and subject to administrative recoupment. BAM 725, p. 3. [Emphasis added]. Overissuances on **inactive** programs are recouped through cash repayment processes. Collection notices are sent to the household on the inactive case. BAM 725, p. 3. [Emphasis added].

For FIP, SDA, CDC, MA and FAP, 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. Active recipients are afforded their hearing rights automatically, but MDHHS must request hearings when the program is inactive.

In this case, the question is not whether Respondent is at fault for the FAP OI, but it is whether there is a FAP OI in the first place. Based on the objective evidence on the whole record, the Department has shown that Respondent received a FAP OI in the amount of \$ [REDACTED]. The OI was clearly due to an agency error after the Department, in the FAP budget, grossly understated the amount of Respondent's monthly earned income from employment for the months of January and February 2015. Respondent did not dispute the relevant facts in this matter.

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 \$ [REDACTED].

DECISION AND ORDER

Accordingly, the Department is **AFFIRMED**.

IT IS ORDERED that the Department **may** initiate collection procedures for a \$ [REDACTED] FAP OI in accordance with Department policy.



CP/las

C. Adam Purnell
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]