



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: April 19, 2016
MAHS Docket No.: 15-014904
Agency No.: [REDACTED]
Respondent: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Corey Arendt

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 April 15, 2016, from Lansing, Michigan. The Department was represented by [REDACTED], Recoupment Specialist (RS). Respondent represented herself.

ISSUE

Did the Respondent receive an overissuance (OI) of \$ [REDACTED] in Food Assistance (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 is an active recipient of food assistance benefits from the Department. (Testimony).
2. The Department alleges Respondent received an OI of FAP benefits during the period [REDACTED], through [REDACTED], due to Agency Error (AE). (Exhibit A, pp. 1-4).
3. The Department alleges that Respondent received a \$ [REDACTED] OI that is still due and owing to the Department. (Testimony).

4. On [REDACTED], the Department mailed Respondent a Notice of Overissuance (DHS-4358-A), Overissuance Summary (DHS-4358-B), and Department and Client Error Information and Repayment Agreement (DHS-4358-C). (Exhibit A, pp. 1-4).
5. On [REDACTED], 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. (Hearing Packet).
6. On [REDACTED], the Michigan Administrative Hearing System (MAHS) received the matter from 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.

When a client group receives more benefits than it is entitled to receive, MDHHS must attempt to recoup the overissuance. BAM 700 (2011), 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 \$125 per program. BAM 700, p. 4. 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.

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.

I have reviewed the Department's exhibits and have concluded that because the Department failed to properly budget the Respondent's income, this lead to the Respondent receiving an OI of benefits. **Regardless of fault, the Department must attempt to recoup the OI.** (Bam 700, 725).


Based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, the Administrative Law Judge concludes that the Department Properly determined that Respondent received a \$ [REDACTED] OI of FAP benefits.

DECISION AND ORDER

Accordingly, the Department is **AFFIRMED**.

IT IS FURTHER ORDERED that the Department **may** initiate collection procedures to recoup a FAP OI of \$ [REDACTED] from the Respondent in accordance with Department policy.

CA [REDACTED]



Corey Arendt
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]

Petitioner

[REDACTED]