



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: May 24, 2016
MAHS Docket No.: 16-000729
Agency No.: [REDACTED]
Petitioner:
Respondent: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Kevin Scully

HEARING DECISION

Following Respondent's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10 After due notice, telephone hearing was held on May 17, 2016, from Lansing, Michigan. Participants on behalf of the Department of Health and Human Services (Department) included [REDACTED] (Recoupment Specialist). Participants on behalf of Respondent included [REDACTED] and [REDACTED]. [REDACTED] of [REDACTED], [REDACTED] acted as an interpreter provided by the Department. On March 2, 2016, the hearing was adjourned to locate an interpreter that speaks MaiMai, which is the Petitioner's preferred language.

ISSUE

Did the Department properly determine that the Respondent received an overissuance of Food Assistance Program (FAP)?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. The Respondent was an ongoing Food Assistance Program (FAP) recipient when she reported to the Department on a Redetermination (DHS-1010) form on September 30, 2014, that no one in her benefit group was receiving any income. Exhibit A, pp 4 – 9.
2. On October 3, 2014, the Respondent reported to the Department that she had lost her job. Exhibit A, p 37.

3. On January 8, 2015, the Respondent's benefit group was added to the triage list due to being fired from her job. Exhibit A, p 36.
4. On January 30, 2015, the Respondent started new employment, which continued through November 20, 2015. Exhibit A, pp 10 – 12.
5. The Respondent was an ongoing Food Assistance Program (FAP) recipient from April 1, 2015, through November 30, 2015, receiving \$ [REDACTED] of FAP benefits. Exhibit A, pp 13 – 14.
6. If the Respondent's earned income had been applied towards her eligibility for Food Assistance Program (FAP) benefits from April 1, 2015, through November 30, 2015, she would have been eligible for \$ [REDACTED] of the benefits she received. Exhibit A, pp 15 – 33.
7. On November 30, 2015, an Overissuance Referral (DHS-4701) was completed due to a suspected overissuance of Food Assistance Program (FAP) benefits resulting from unreported earnings from employment. Exhibit A, p 3.
8. On December 4, 2015, the Department notified the Petitioner of its intent to recoup Food Assistance Program (FAP) benefits totaling \$ [REDACTED] for the period of April 1, 2015, through November 30, 2015. Exhibit A, p 2.
9. On January 22, 2016, the Department received the Respondent's request for a hearing protesting the recoupment of Food Assistance Program (FAP) benefits. Exhibit A, p 2.

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), Department of Health and Human Services Reference Tables Manual (RFT), and Department of Health and Human Services Emergency Relief Manual (ERM).

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-.3011.

When a client group receives more benefits than it is entitled to receive, the Department must attempt to recoup the overissuance. An agency error is caused by incorrect action (including delayed or no action) by Department staff or Department processes. 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. Client and

agency errors are not pursued if the estimated amount is less than \$250 per program. Department of Health and Human Services Bridges Administrative Manual (BAM) 700 (May 1, 2014), pp 1-9.

Overissuance balances on inactive cases must be repaid by lump-sum or monthly cash payments unless collection is suspended. Department of Health and Human Services Bridges Administrative Manual (BAM) 725 (July 1, 2014), p 8.

The Respondent was an ongoing FAP recipient when she reported to the Department that she had lost her employment and that no one in her benefit group was receiving any income. On October 3, 2014, the Respondent submitted a Redetermination (DHS-1010) showing that no one in her household was receiving any income.

On January 30, 2015, the Respondent received new employment, which continued through November 20, 2015. If the Respondent had reported her employment within ten days, the Department would have redetermined her eligibility for continuing benefits no later than April 1, 2015. From April 1, 2015, through November 30, 2015, the Respondent received FAP benefits totaling \$ [REDACTED] which were based on a gross monthly income of \$0. Based on the earned income the Respondent actually received during this time, she would have been eligible for \$ [REDACTED] of FAP benefits if the Department had processed this income. Therefore, the Respondent received a \$ [REDACTED] overissuance of FAP benefits.

The Respondent testified that the Department assisted her with obtaining the employment she started on January 30, 2015. The Respondent testified that she provided her caseworker with copies of her paycheck stubs. The Respondent testified that she was unable to contact her caseworker by telephone during this period, and that her caseworker did not return her voicemail messages.

No witnesses with personal knowledge of the verification material submitted by the Petitioner testified during the hearing. No records of the Respondent's participation in self-improvement services was submitted as evidence on the record.

This Administrative Law Judge finds that the Respondent received an overissuance of FAP benefits because her earned income was not applied towards her eligibility to receive benefits from April 1, 2015, through November 30, 2015.

However, this Administrative Law Judge finds that the evidence does not support a finding that the overissuance was caused by client error. If the Department was aware that the Respondent had started new employment and failed to request verification of her income, then the overissuance may have been caused by Department error. The Respondent testified credibly that she did provide this information to the Department, and it is reasonable that the Department would have provided her with guidance to find new employment under these circumstances.

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that the Department did establish a Food Assistance Program (FAP) benefit overissuance to Respondent totaling \$ [REDACTED] due to Department/Agency error.

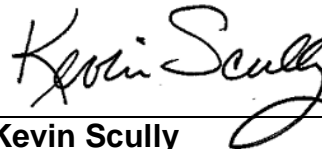
DECISION AND ORDER

Accordingly, the Department's decision is **REVERSED**.

The Department is ORDERED to delete the client error overissuance and cease any recoupment action.

The Department is ORDERED to reinstate the overissuance as a Department/Agency Error in the amount of \$ [REDACTED] for the period of April 1, 2015, through November 30, 2015.

The Department is ORDERED to initiate collection procedures for a [REDACTED] overissuance in accordance with Department policy.



KS/las

Kevin Scully
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]