



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

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Date Mailed: May 6, 2016
MAHS Docket No.: 16-001755
Agency No.: ██████████
Respondent: ██████████

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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 Detroit, Michigan. The Department was represented by ██████████, Recoupment Specialist and ██████████, Program Manager. The Respondent appeared for the hearing and represented herself.

ISSUE

Did Respondent receive an over-issuance (OI) of Food Assistance Program (FAP) benefits that the Department is entitled to recoup??

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 an ongoing recipient of FAP benefits.
2. Respondent reported through an assistance application submitted in July 2013 that Mr. ██████████ is the father of her children. Respondent indicated on various applications that ██████████ is an absent parent not living in the home. (Exhibit K)
3. Based on employment records and statements made by ██████████ ██████████ and Respondent, the Department determined that ██████████ resided in the same home as Respondent for the period of September 1, 2013, through January 31, 2016. (Exhibit A; Exhibit B; Exhibit E; Exhibit F)

4. Respondent completed a redetermination in July 2014 and failed to report that Mr. Burnette lived in her home. (Exhibit K)
5. On January 25, 2016, the Department sent Respondent a Notice of Overissuance alleging that she received an OI of FAP benefits totaling \$6596 for the period from September 1, 2013, to January 31, 2016, due to client error. (Exhibit C)
6. During the OI period of September 1, 2013, to January 31, 2016, Respondent and [REDACTED] were employed and earning income. (Exhibit E; Exhibit F)
7. The Department asserted that the client error OI was caused by Respondent's failure to report [REDACTED] as a mandatory FAP group member and that she failed to report [REDACTED] earned income.
8. The Department alleges that Respondent received a \$6596 FAP client error OI that is still due and owing to the Department.
9. On February 8, 2016, Respondent requested a hearing disputing the proposed recoupment action.

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.

In this case, the Department alleges that from September 1, 2013, to January 31, 2016, Respondent received a \$6596 client error caused OI in FAP benefits because she failed to report that [REDACTED], a mandatory household group member for FAP purposes was living in the home and further, that Respondent failed to report [REDACTED] earned income from employment.

When a client group receives more benefits than they are entitled to receive, the Department must attempt to recoup the OI. BAM 700 (January 2016), p. 1. A client error OI occurs when the client received more benefits than they were entitled to because the client gave incorrect or inaccurate information to the Department. BAM 700, p.6. An agency error OI is caused by incorrect actions by the Department,

including delayed or no action, which result in the client receiving more benefits than they were entitled to receive. BAM 700, p.4. The amount of the overissuance is the benefit amount the group actually received minus the amount the group was eligible to receive. BAM 715 (January 2016), p. 6; BAM 705 (January 2016), p. 6.

The Department's evidence established that Mr. Burnette was the father of Respondent's two children and as such, was a mandatory group member for FAP purposes, pursuant to the policy found in BEM 212. See BEM 212 (October 2015). Additionally, at the hearing, Respondent confirmed that [REDACTED] was the father of her children and testified that for a portion of the OI period, he did live with her and the children. Respondent stated that he was in and out of the home, despite being listed on the lease as an occupant. Respondent testified that he moved out of her home in January 2016.

The Department also presented documentation to establish that Respondent was issued \$7600 in FAP benefits by the State of Michigan, and the Department alleges that Respondent was entitled to \$1004 in such benefits during the period between September 1, 2013, and January 31, 2016, resulting in an OI of FAP benefits of \$6596. (Exhibit H; Exhibit I). In support of its OI case, the Department presented verifications of employment, including work numbers for various places of employment during the OI period for both Respondent and [REDACTED]. The employment records detail the dates, amounts paid, the pay periods of the earnings as well as the home address reported by [REDACTED] for employment purposes, which is the same address as Respondent's. (Exhibit E; Exhibit F). Respondent did not present any evidence to refute the Department's testimony and did not establish that the information contained in the verifications of employment was inaccurate.

A review of the FAP OI budgets and verification of employment provided for each group member and for each month in the OI period establishes that when the unreported earned income and increased group member are included in the calculation of Respondent's monthly FAP benefits, she was eligible to receive \$1004 in FAP benefits for the period between September 1, 2013, and January 31, 2016. Thus, the Department is entitled to recoup or collect from Respondent, \$6596, the difference between the \$7600 in FAP benefits actually issued to her and the \$1004 in FAP benefits she was eligible to receive.

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that the Department **did** establish a client error FAP benefit OI to Respondent totaling \$6596 for the period of September 1, 2013, to January 31, 2016.

DECISION AND ORDER

Accordingly, the Department is AFFIRMED.

The Department is ORDERED to initiate collection procedures for a \$6596 OI in accordance with Department policy.



ZB/tlf

Zainab Baydoun
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

[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
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