



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: June 20, 2016
MAHS Docket No.: 15-006941
Agency No.: [REDACTED]
Petitioner: [REDACTED]
Respondent: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 [REDACTED], from Detroit, Michigan. The Department was represented by [REDACTED], Recoupment Specialist. Respondent did not appear. This matter having been initiated by the Department and due notice having been provided to Respondent, the hearing was held in Respondent's absence in accordance with Department of Health and Human Services Bridges Administrative Manual (BAM) 725 (July 2014), pp. 1-17.

ISSUE

Did Respondent receive an overissuance (OI) of Food Assistance Program (FAP) and Child Development and Care (CDC) 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 and CDC benefits from the Department. The Petitioner had a three-member FAP group.
2. On [REDACTED], the Department sent the Respondent a Notice of Overissuance (OI Notice) informing her of an FAP OI and CDC OI. Exhibit 1, pp. 2-9.

3. The Notice also indicated that the OI balance for FAP was due to Respondent's earnings exceeding the simplified reporting requirements.
4. The Department alleges Respondent received an FAP OI during the period [REDACTED] through [REDACTED], due to **Respondent's** error.
5. The Department alleges that Respondent received an FAP \$ [REDACTED] OI that is still due and owing to the Department. Exhibit 1, pp. 2-3.
6. The Department alleges Respondent received a CDC OI during the period [REDACTED], through [REDACTED], due to **Respondent's** error.
7. The Department alleges that Respondent received a CDC OI in the amount of \$ [REDACTED] which is still due and owing to the Department. Exhibit 1, pp. 6 and 21.
8. On [REDACTED], MAHS sent both parties a Notice of Debt Collection hearing scheduling the hearing for [REDACTED].

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.

The Child Development and Care (CDC) program is established by Titles IV-A, IV-E and XX of the Social Security Act, 42 USC 601-619, 670-679c, and 1397-1397m-5; the Child Care and Development Block Grant of 1990, PL 101-508, 42 USC 9858 to 9858q; and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193. The program is implemented by 45 CFR 98.1-99.33. The Department administers the program pursuant to MCL 400.10 and provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001-.5020.

FAP overissuance

When a client group receives more benefits than they are entitled to receive, the Department must attempt to recoup the OI. BAM 700 (May 2014), p. 1. The amount of

the OI is the benefit amount the group or provider actually received minus the amount the group was eligible to receive. BAM 715 (July 2014), p. 6.

A client/CDC provider error OI occurs when the client received more benefits than they were entitled to because the client/CDC provider gave incorrect or incomplete information to the department. BAM 715, p. 1.

Food assistance groups with countable earnings are assigned to the simplified reporting (SR) category. BAM 200 (December 2011), p. 1.

Simplified reporting (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. BAM 200, p. 1. No other change reporting is required. BAM 200, p. 1. If the group has an increase in income, the group must determine their total gross income at the end of that month. BAM 200, p. 1. If the total gross income exceeds the group's SR income limit, the group must report this change to their specialist by the 10th day of the following month, or the next business day if the 10th day falls on a weekend or holiday. BAM 200, p. 1. Once assigned to SR, the group remains in SR throughout the current benefit period unless they report changes at their semi-annual contact or redetermination that make them ineligible for SR. BAM 200, p. 1.

A client error was alleged in this situation because the evidence presented that Respondent failed to report that her income exceeded the SR income limit in accordance with Department policy. See BAM 200, pp. 1 and 5 and BAM 715, p. 1. In this case, the total gross income exceeded the Respondent's SR income limit for the benefit period in question. See BAM 200, p. 1.

The income limit is 130 percent of the poverty level based on group size. BAM 200, p. 1. To determine the group's SR income limit, all eligible members of the FAP group are counted. BAM 200, p. 1. Respondent's applicable group size in this case is one. RFT 250 indicates that the simplified reporting income limit for a group size of one is \$ [REDACTED] RFT 250 (October 2011), p. 1.

In this case, the Department alleges that Respondent, who is a food assistance simplified reporter, failed to report her income exceeding the reporting limits, which caused an OI of FAP benefits. The Department discovered the OI by wage match information as the Petitioner did not report any paystubs. The Petitioner was informed of her simplified reporting limit through notices sent to her throughout the period beginning [REDACTED], through [REDACTED].

The Department provided a summary of the various simplified reporting limits and total paystubs for each employer, Supplemental Security Income (SSI) for [REDACTED] \$ [REDACTED] child support amounts, which varied by month, and [REDACTED] employment earnings. Exhibit 1, p. 69. These income amounts were compared to those used in the FAP OI budgets and were correct. As regards the SSI, the Department also included a \$ [REDACTED]

overpayment when the true amount received for SSI was \$ [REDACTED]. In addition, while the earned income totals were correct, the budgets for [REDACTED] and [REDACTED] did not indicate the basis that the Department determined the OI, whether based on gross income exceedance or actual net income over the limit. Thus, the Department did not establish an OI for those months based upon the budgets provided. In [REDACTED] when the SSI overpayment was deducted, the gross income did not exceed the gross income limit. The undersigned is not required to determine the correct result but can only review the evidence which is presented, which in this case did not establish an OI for FAP benefits.

The Department alleged that Respondent's income exceeded the reporting limits based on two different employments. The Department presented wage information summaries from the employer which verified the Respondent received income from the employers that were not reported and verifications by the employers. See Exhibit A, pp. 71-72, and pp. 89-98.

The Department also presented unearned income sources using a State Online Query (SOLQ) for SSI income and Child Support summaries for each of Respondent's children. Exhibit 1, pp. 79-80. The SOLQ did note a \$ [REDACTED] overpayment, which was deducted from SSI of \$ [REDACTED] however, the Department used the total amount of \$ [REDACTED] which the Department testified was incorrect.

Based on the foregoing information and evidence, the Department did not establish an FAP benefit OI to Respondent in the amount of \$ [REDACTED]. Exhibit 1, p. 69.

CDC overissuance

A review of the CDC budgets were made and in each month the Petitioner's earned and unearned income exceeded the income eligibility limit of \$ [REDACTED]. Exhibit 1, pp. 23, 26, 29, 32, 35, and 38. Thus, the Department established a CDC OI in the amount of \$ [REDACTED] based upon Respondent's income exceeding the income limit.

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that the Department **did not** establish an FAP OI of \$ [REDACTED] and **did establish** a CDC OI of \$ [REDACTED].

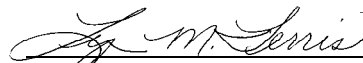
DECISION AND ORDER

Accordingly, the Department is **AFFIRMED AS TO THE CDC OVERISSUANCE ONLY. REVERSED AS TO THE FAP OVERISSUANCE.**

The Department is ORDERED to initiate collection procedures for a CDC OI of \$ [REDACTED] in accordance with Department policy.

The Department is ordered to cease any collection action for the FAP OI.

LMF/jaf



Lynn M. Ferris
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]

Respondent

[REDACTED]

cc:

[REDACTED]