



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.: 16-005063
Agency No.: [REDACTED]
Petitioner: Department
Respondent: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Eric J. Feldman

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 May 31, 2016, 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 (October 2015), pp. 1-17.

ISSUE

Did Respondent receive an over-issuance (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. See Exhibit A, pp. 9-10.
2. On March 7, 2016, the Department sent Respondent a Notice of Overissuance (OI notice) informing her of a FAP overissuance (OI) for the period of [REDACTED]

██████████, due to client error. See Exhibit A, pp. 4-7. The OI notice also indicated that the OI balance was \$1,504 due to Respondent did not reporting unemployment compensation. See Exhibit A, p. 4.

3. On ██████████, Respondent filed a hearing request, protesting the Department's action. See Exhibit A, p. 3.
4. On ██████████, the Department requested a debt collection hearing.

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 (OI). BAM 700 (January 2016), 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 (January 2016), p. 6.

A client/provider error overissuance is when the client received more benefits than he/she was entitled to because the client/CDC provider gave incorrect or incomplete information to the department. BAM 715, p. 1.

In this case, the Department alleges that Respondent failed to report her unemployment wages to the Department, which caused an overissuance of FAP benefits.

Clients must report changes in circumstance that potentially affect eligibility or benefit amount. BAM 105 (May 2012), p. 7. Changes must be reported within 10 days of receiving the first payment reflecting the change. BAM 105, p. 7.

Income reporting requirements are limited to the following:

- Earned income:
 - Starting or stopping employment.
 - Changing employers.
 - Change in rate of pay.

- Change in work hours of more than five hours per week that is expected to continue for more than one month.

- Unearned income:

- Starting or stopping a source of unearned income.
- Change in gross monthly income of more than \$50 since the last reported change.

BAM 105, p. 7.

First, the Department presented verification that Respondent received unemployment compensation from [REDACTED]. See Exhibit A, pp. 26-32.

Second, the Department presented Respondent's redetermination received on [REDACTED] which was submitted after the alleged OI period. See Exhibit A, pp. 43-46. In the redetermination, Respondent did not report receiving any unemployment compensation, even though the Department argued that she was receiving unemployment compensation at the time. See Exhibit A, p. 44.

Based on the foregoing information and evidence, the Department did establish a FAP benefit OI to Respondent. Even though it is after the alleged OI period, the Department did present Respondent's redetermination dated [REDACTED], in which she did not report any unemployment earnings, even though the evidence established that she was receiving it at the time. See Exhibit A, pp. 26-32 and 44. This evidence is sufficient to show that a client error is present in this case because Respondent failed to notify the Department of her unemployment compensation. See BAM 105, p. 7.

Applying the overissuance period standards, it is found that the Department applied the appropriate OI begin date of [REDACTED]. See BAM 715, pp. 4-5 and Exhibit A, pp. 26-32.

In this case, the Department presented OI budgets for July 2012 to February 2013. See Exhibit A, pp. 11-25. The budgets included Respondent's unemployment income that was not previously budgeted. See Exhibit A, pp. 26-32. A review of the OI budgets found them to be fair and accurate, except for January 2013 to February 2013. For January 2013 to February 2013, the Department failed to provide any evidence that Respondent actually received a FAP allotment for these two benefit periods. See Exhibit A, pp. 9-10 (Benefit Summary Inquiry fails to show any allotment for January 2013 to February 2013). Moreover, the Department failed to provide a FAP budget for February 2013. As such, the Department failed to establish that it properly calculated the OI for [REDACTED]. Nonetheless, the Department is entitled to recoup \$1,136 of FAP benefits for the period of [REDACTED], [REDACTED]. See BAM 715, pp. 7-8.

DECISION AND ORDER

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 \$1,136 for the period of [REDACTED].

Accordingly, the Department is **AFFIRMED** to the reduced OI of \$1,136 for FAP benefits.

The Department is **ORDERED** to reduce the OI to \$1,136 for FAP benefits for the period [REDACTED], and initiate recoupment/collection procedures in accordance with Department policy, less any amount already recouped and/or collected.

EF/hw



Eric J. Feldman

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]