



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: [REDACTED]
MAHS Docket No.: 16-006601
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Jacquelyn A. McClinton

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], Hearing Facilitator and [REDACTED], Recoupment Specialist. The Respondent was represented by Respondent.

ISSUE

Did Respondent receive an over-issuance (OI) of 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.
2. The Department alleges Respondent received a FAP OI during the period [REDACTED] through [REDACTED] (first OI period), due to Respondent's error.
3. The Department alleges that Respondent received \$657.00 OI during the first OI period that is still due and owing to the Department.

4. The Department alleges Respondent received a FAP OI during the period of [REDACTED] through [REDACTED] (second OI period), due to Respondent's error.
5. The Department alleges that Respondent received \$768.00 OI during the second OI period that is still due and owing to 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.

Additionally, when a client group receives more benefits than they are entitled to receive, the Department must attempt to recoup the OI. BAM 700 ([REDACTED]), p. 1. 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. 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. 5. The amount of the OI is the benefit amount the client actually received minus the amount the client was eligible to receive. BAM 715 [REDACTED], p. 1.

In this case, the Department alleges that Respondent received an OI of FAP benefits in the amount of \$657.00 from [REDACTED] through [REDACTED] because she failed to timely report her employment. Respondent was unable to recall when she began work. Respondent acknowledged that she did not timely report her income to the Department, but explained that she was waiting on the Department to send her a Verification of Employment.

The Department presented quarterly earnings received by Petitioner for the third quarter of 2010 and the 4th quarter 2010. The Verification of Employment forms sent to Respondent's respective employers were not returned. As such, the Department divided the quarterly income by three to allow for an equal amount for each month in the quarter. The Department testified that Respondent received \$720.00 in FAP benefits between [REDACTED] and [REDACTED]. Further, the Department presented budgets which showed that Respondent would have been entitled to \$63.00 if the

earned income had been timely reported. Therefore, the Department has established that an overissuance occurred in the amount of \$657.00, and it is therefore entitled to recoup that amount for FAP benefits it issued to Respondent between [REDACTED] and [REDACTED].

The Department has also alleged that Respondent received an OI of FAP benefits in the amount of \$768.00 from [REDACTED] through [REDACTED] because Respondent failed to timely report her husband's income. Respondent acknowledged that she did not timely report her husband's income and explained that her husband did not provide her with his paystubs to be turned into the Department.

The Department presented quarterly earnings received by Petitioner's husband for the fourth quarter of 2015. The Department indicated that it did receive a completed Verification of Employment form from Respondent's husband's employer; however, the employer noted that it was unable to provide income information for this period as it had changed payroll companies. As such, the Department divided the quarterly income by three to allow for an equal amount for each month in the quarter. The Department testified that Respondent received \$1,022.00 in FAP benefits between [REDACTED] [REDACTED]. Further, the Department presented budgets for each month. The budget for [REDACTED] revealed that Respondent would have been entitled to \$127.00 for each month if the earned income had been timely reported; creating an alleged overissuance of \$768.00.

The Department testified that Respondent's employment was reported on [REDACTED] [REDACTED]. The Department indicated that the report of the income was untimely because Respondent's husband began working on [REDACTED]. However, because the employment was reported on [REDACTED] [REDACTED], the Department should have allowed for an earned income deduction. BEM 556 [REDACTED] 3), p. 3. Because the Department failed to provide the appropriate deduction, it is found that it has failed to establish an overissuance for [REDACTED]. Therefore, the undersigned finds that the Department has established that an overissuance occurred in the amount of \$384.00 and it is therefore entitled to recoup that amount for FAP benefits it issued to Respondent in [REDACTED].

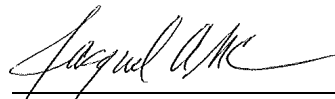
The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that the Department did establish a FAP benefit OI to Respondent totaling \$1,041.00 between the two OI periods.

DECISION AND ORDER

Accordingly, the Department is **AFFIRMED**.

The Department is ORDERED to initiate collection procedures for an overissuance in the amount of \$1,041.00 in accordance with Department policy.

JM/hw



Jacquelyn A. McClinton

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 [REDACTED]; 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



Petitioner

