



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: November 1, 2016
MAHS Docket No.: 16-004279
Agency No.: [REDACTED]
Petitioner:
Respondent: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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 October 5, 2016, from Lansing, Michigan. The Michigan Department of Health and Human Services Department (MDHHS or Department) was represented by [REDACTED] [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.

During the hearing proceeding, the Department's Hearing Summary packet was admitted as Exhibit A, pp. 1-36.

ISSUE

Did Respondent receive an over-issuance 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.

2. The Department alleges Respondent received a FAP over-issuance during the period April 2015, through June 2015, due to Respondent's error.
3. The Department alleges that Respondent received \$ [REDACTED] over-issuance 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.

When a client group receives more benefits than it is entitled to receive, MDHHS must attempt to recoup the over-issuance. An over-issuance is the amount of benefits issued to the client group or CDC provider in excess of what it was eligible to receive. For FAP benefits, an over-issuance is also the amount of benefits trafficked (stolen, traded, bought or sold) or attempted to be trafficked. BAM 700, (January 1, 2016), pp. 1-2.

An agency error is caused by incorrect action (including delayed or no action) by MDHHS staff or department processes. If unable to identify the type, record it as an agency error. BAM 700, pp 4-5.

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. BAM 700, p 6.

Clients must report changes in circumstance that potentially affect eligibility or benefit amount. Changes must be reported within 10 days of receiving the first payment reflecting the change. This includes changes with income. BAM 105, (April 1, 2015), pp. 10-12.

Client and Agency error over-issuances are not pursued if the estimated over-issuance amount is less than \$250 per program. BAM 700, p 9.

Additionally, when the household fails to provide verification of earnings from a Wage Match, the recoupment specialist is to use the income shown on the wage match report to calculate the over-issuance. Specifically, to average the income over the time period

reported on the task and reminder to determine a monthly income amount and to use the first and last month of the time period as the over-issuance begin and end dates. BAM 802, (January 1, 2016) p. 3.

Here, the Department contends that Respondent received an over-issuance of FAP benefits due to Respondent's error. The Department asserts that Respondent failed to timely report an income change. Respondent acknowledged his rights and responsibilities by his electronic signature on the February 9, 2015, assistance application. (Exhibit A, pp. 2-19) Respondent was required to timely report any changes with the household income.

A Wage Match report showed unreported income the second quarter of 2015 of \$ [REDACTED] from [REDACTED] [REDACTED]. Further, the Department asserts that Respondent failed to return verification requested from the Wage Match. (Exhibit A, p. 29-31) Respondent's failure to timely report the change with income resulted in a FAP benefit over-issuance of \$ [REDACTED] for the months of April 2015, through June 2015. (Exhibit A, pp. 20-28)

This Administrative Law Judge has carefully considered and weighed the evidence in the record. Pursuant to BAM 105, Respondent was responsible for reporting any changes in circumstance that potentially affect eligibility or benefit amount within 10 days of receiving the first payment reflecting the change. This includes changes with income because income is included in the FAP budget to determine the monthly allotment the FAP group is eligible to receive. The evidence establishes that Respondent did not timely report an income change for the second quarter of 2015. When Respondent's income was corrected in the FAP budgets, the difference between the benefit amounts Respondent received and the benefit amounts Respondent was entitled to receive totals \$ [REDACTED]. Pursuant to BAM 700, recoupment is pursued for over-issuances greater than \$ [REDACTED]. Accordingly, the Department properly pursued Respondent's FAP benefit OI of \$ [REDACTED] that resulted from the failure to report the change with income.

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that the Department did establish a FAP benefit over-issuance to Respondent totaling \$ [REDACTED].

DECISION AND ORDER

Accordingly, the Department is **AFFIRMED**.

The Department is ORDERED to initiate collection procedures for a FAP \$ [REDACTED] over-issuance in accordance with Department policy.



CL/mc

Colleen Lack
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]