



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: October 3, 2016
MAHS Docket No.: 16-001530
Agency No.: [REDACTED]
Petitioner: OIG
Respondent: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Gary Heisler

HEARING DECISION

Upon a hearing request by the Department of Health and Human Services (Department) to establish an over-issuance (OI) of benefits to Petitioner, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9, 400.43a, and 24.201, *et seq.*, and Mich Admin Code, R 400.941, and in accordance with 7 CFR 273.15 to 273.18, 42 CFR 431.200 to 431.250, 45 CFR 99.1 to 99.33, and 45 CFR 205.10. After due notice, a telephone hearing was held on September 28, 2016, from Lansing, Michigan. Participants on behalf of the Department included Recoupment Specialist [REDACTED]. Respondent did not appear and the hearing was conducted in her absence.

ISSUE

Did Respondent receive a \$ [REDACTED] Client Error over-issuance of Food Assistance Program benefits from April 1, 2012 to August 31, 2012?

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 Food Assistance Program benefits from the Department from April 1, 2012 to August 31, 2012.
2. On January 24, 2012, Respondent submitted a Redetermination (DHS-1010) form for Food Assistance Program (FAP) benefits. On the form Respondent did not indicate any earned income for the household.

3. On July 9, 2012, Respondent submitted a Redetermination (DHS-1010) for Medical Assistance (MA). On the form Respondent did not indicate any earned income for the household.
4. On July 12, 2012, the Department received a Wage Match for Respondent which showed a total amount of wages she received during the three months of the first quarter of 2012.
5. On December 17, 2012, the Department obtained a wage match for Respondent showing her total wages for each of the 1st, 2nd and 3rd quarters of 2012.
6. April 1, 2012 to August 31, 2012 has been properly determined as the over-issuance period caused by this Client Error caused over-issuance.
7. Due to Client Error of Respondent not reporting earned income on either the January 24, 2016 or July 9, 2012 Redeterminations (DHS-1010), she received a \$ [REDACTED] over-issuance of Food Assistance Program benefits during the April 1, 2012 to August 31, 2012 over-issuance period.
8. On January 12, 2016, Respondent was sent a Notice of Over-Issuance (DHS-4358).
9. On January 16, 2016, Respondent submitted a hearing request.
10. On February 11, 2016, the Department requested this Debt Establishment hearing on behalf of Respondent.
11. The Department received verification of employment dates and all wages from Respondent's employer after the Notice of Over-Issuance (DHS-4358) was sent out. With the complete employment record, the Department recalculated the over-issuance period and over-issuance amount. During this hearing the Department's verbal motion to change the start date of the over-issuance period from March 1, 2012, to April 1, 2012 was granted. Because the over-issuance is one month shorter, the over-issuance amount was reduced to \$ [REDACTED]. There is no deficiency of notice to the Respondent because the amended over-issuance amount is less than the amount noticed.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), and Department of 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 .3011.

Bridges Administration Manual (BAM) 725 Collection Actions states that when the client group or CDC provider receives more benefits than entitled to receive, DHS must attempt to recoup the over-issuance. Additionally, anyone who was an eligible, disqualified, or other adult in the program group at the time the over-issuance occurred is responsible for repayment of the over-issuance.

DHHS requests a debt collection hearing when the grantee of an inactive program requests a hearing after receiving the DHS-4358B, Agency and Client Error Information and Repayment Agreement. Active recipients are afforded their hearing rights automatically, but DHHS must request hearings when the program is inactive.

The Department submitted two Redeterminations (DHS-1010) that Respondent signed and submitted to the Department prior to, and during, the alleged over-issuance period. On both Redeterminations (DHS-1010) Respondent indicated there was no earned income in the household.

Bridges Administration Manual (BAM) 715 Client/CDC Provider Error Over-Issuance provides the following definition: "A provider error over-issuance 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." The event that caused this over-issuance was Respondent's error of not reporting earned income on her Redeterminations (DHS-1010).

Over-issuance Period
Client/CDC Provider Error

BAM 715 Client/CDC Provider Error Over-Issuances, states that the over-issuance period begins the first month (or pay period for CDC) benefit issuance exceeds the amount allowed by policy **or** 72 months before the date it was referred to the RS, whichever is later.

To determine the first month of the over-issuance period (for over-issuances 11/97 or later) Bridges allows time for:

The client reporting period, per BAM 105.

The full standard of promptness (SOP) for change processing, per BAM 220.

The full negative action suspense period: see BAM 220.

The over-issuance period ends the month (or pay period for CDC) before the benefit is corrected.

The initial over-issuance period was calculated using only the Wage Match showing the total amount of wages she received during the three months of the first quarter of 2012. Department policy allows the presumption that wages started in January 2012 so application of the over-issuance period calculation cited above, indicated the over-issuance period would begin March 1, 2012. When the Department received the actual employment dates and wage payments, the more specific information was used to recalculate the over-issuance period as beginning April 1, 2012. During this hearing the Department's verbal motion to change the start date of the over-issuance period to April 1, 2012, was granted.

Over-issuance Amount

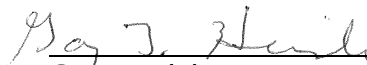
BAM 705 Agency Error Over-Issuances and BAM 715 Client/CDC Provider Error Over-Issuances, states the over-issuance amount is the benefit amount the group actually received minus the amount the group was eligible to receive. The initial over-issuance period and monthly over-issuance budgets were calculated in accordance with Department policy using only the information contained in the Wage Match showing the total amount of wages she received during the 1st, 2nd and 3rd quarter of 2012. When the Department received the actual employment dates and wage payments, the more specific information showed that the over-issuance period did not begin until April 1, 2012. The updated monthly over-issuance budgets for the shorter over-issuance period show that Respondent was issued a total of \$[REDACTED] in Food Assistance Program (FAP) benefits during the over-issuance period but was only eligible for \$[REDACTED] of Food Assistance Program (FAP) during that period. Respondent received a \$[REDACTED] Client Error over-issuance.

DECISION AND ORDER

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did establish that Respondent received a \$[REDACTED] Client Error over-issuance of Food Assistance Program benefits that the Department is entitled to recoup in accordance with Department policies in BAM 705, BAM 710, BAM 720, and BAM 725..

Accordingly, the Department's decision is **UPHELD**.

GH/nr



Gary Heisler
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]