



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.: 16-003051
Agency No.: [REDACTED]
Petitioner: OIG
Respondent: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Susanne E. Harris

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 September 29, 2016, from Lansing, Michigan. The Department was represented by Family Independence Manager, [REDACTED] and Recoupment Specialist, [REDACTED]. The Respondent, [REDACTED], appeared and testified.

PROCEDURAL HISTORY

The record closed at the conclusion of the hearing. The following documents were offered and admitted into evidence:

Department: A--OIG Investigation Disposition Report.
B--Bridges Summary Inquiry.
C--Case Comments.
D--Notice of Over-issuance (OI) and related documents.

Respondent: None.

ISSUE

Did Respondent receive an over-issuance (OI) of Food Assistance Program (FAP) that the Department is entitled to collect?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. The Respondent was a recipient of FAP benefits from the Department.
2. The Department alleges the Respondent received a FAP OI during the period of October 1, 2014 to September 30, 2015.
3. The Department alleges that the Respondent received a \$ [REDACTED] FAP OI 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, BAM 700 (2016) p. 1, provides that when a client group receives more benefits than it is entitled to receive, the Department must attempt to recoup the OI. There are three types of OI; agency error, client error and Intentional Program Violation (IPV). pp. 4, 5. An agency error is caused by incorrect action (including delayed or no action) by MDHHS staff or department processes. Some examples are:

- Available information was not used or was used incorrectly.
- Policy was misapplied.
- Action by local or central office staff was delayed.
- Computer errors occurred.
- Information was not shared between department divisions such as services staff.
- Data exchange reports were not acted upon timely.

If the Department is unable to identify the type of error, it is to be recorded as an agency error. 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. A client error also exists when the client's timely request for a hearing result in deletion of a MDHHS action, and any of the following occurred:

- The hearing request is later withdrawn.
- MAHS denies the hearing request.
- The client or administrative hearing representative fails to appear for the hearing and MAHS gives MDHHS written instructions to proceed.
- The hearing decision upholds the Department's actions; see BAM 600.

BAM 705 (2016) p. 6, provides that the amount of the OI is the benefit amount the group actually received minus the amount the group was eligible to receive. BAM 715 (2006) p. 8, provides that for client error OI is due, at least in part, to failure to report earnings, the Department's worker is not to allow the 20% earned income deduction on the unreported earnings.

In this case, it is not disputed that the alleged OI was the result of an agency error. The Recoupment Specialist testified, at all times, that the Respondent was forthcoming with her criminal record. The Respondent protested that she cannot afford to repay the debt. The Respondent voiced her opinion that it should be the Department's worker who erred that should be made to repay the debt. This Administrative Law Judge informed the Respondent that she would research the issues and policy and if the policy provided for any hardship exception or procedure for a respondent who could not repay the debt, this Administrative Law Judge would address it in this decision. After extensive research, this Administrative Law Judge could find no such hardship provision or procedure in the Department's policy.

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 the Respondent totaling \$ [REDACTED]

DECISION AND ORDER

Accordingly, the Department is **AFFIRMED**.

The Department is ORDERED to initiate collection procedures in accordance with Department policy.



SH/nr

Susanne E. Harris
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]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Respondent

[REDACTED]