



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: April 22, 2016
MAHS Docket No.: 16-003281
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 April 20, 2016, from Detroit, Michigan. The Department was represented by [REDACTED], Recoupment Specialist. The Respondent was represented by [REDACTED], the Petitioner's spouse and Authorized Hearing Representative (AHR). [REDACTED], Eligibility Specialist, served as an [REDACTED] interpreter for the Petitioner's AHR.

ISSUE

Did Respondent receive an overissuance (OI) of Food Assistance Program (FAP)?

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 an FAP OI during the period January 1, 2014, through June 30, 2014, due to **Department's** error.
3. The Department alleges that Respondent received \$ [REDACTED] OI that is still due and owing to the Department.

4. The Petitioner requested a timely hearing on March 6, 2016, protesting the Department's actions.
5. On or about March 8, 2016, 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.

Additionally, in this case, the Respondent advised the Department on numerous occasions that she was working, provided employer verification and responded timely to several Redeterminations and a Semi-Annual Contact Report. Notwithstanding these efforts by the Respondent, the Department neglectfully failed to schedule the reported income, and thus, due to Agency Error, caused the Respondent to receive FAP benefits that she was otherwise not entitled to receive. Even though the issuance was caused due to Agency Error, the Department is nonetheless responsible to recoup overpaid benefits.

When a client group receives more benefits than they are entitled to receive, the Department must attempt to recoup the OI. BAM 700 (May 2014), 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 705 (July 2014), p. 6.

An agency error is caused by incorrect actions (including delayed or no action) by the Department of Health and Human Services (DHHS) staff or Department processes. BAM 705, p. 1. 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 (Wage Match, New Hires, BENDEX, etc.).

BAM 705, p. 1. If unable to identify the type, record it as an agency error. BAM 705, p. 1.

In this case, the Department alleges that Respondent received an OI for her FAP benefits (agency error) because the Department failed to budget her earned income.

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.

BAM 105, p. 7.

As part of its proofs, the Department presented verification of Respondent's income. See Exhibit 2, [REDACTED], Annual Contact Report; Exhibit 3, [REDACTED], [REDACTED] Verification of Employment; Exhibit 4, Verification of Employment, [REDACTED]; Exhibit 5, Verification of Employment, [REDACTED]; Exhibit 6, [REDACTED], Redetermination; and Exhibit 8, [REDACTED], Redetermination.

The Department presented OI budgets for the period of January 1, 2014, through June 30, 2014. See Exhibit 1, Monthly Budgets, were provided for the FAP programs using the employers' verification (Employee Pay Summary). See Exhibit 1. A review of the OI budgets found them to be properly calculated. The Department did provide Respondent with the 20 percent earned income deduction on her earnings. The Department budgets the entire amount of earned and unearned countable income. BEM 550 (February 2012), p. 1. The gross countable earned income is reduced by a 20 percent earned income deduction. BEM 550, p. 1. For client error overissuances (OIs) due, at least in part, to failure to report earnings, the Department does not allow the 20 percent earned income deduction on the unreported earnings. BAM 715 (July 2014), p. 8. However, for agency error OI's, the policy to exclude the 20 percent earned income deduction is not applicable. See BAM 705, pp. 1-12. Respondent's case only involves an OI amount based on agency error for the period of January 1, 2014, through June 30, 2014.

A review is done of each OI for the months in question and complied with Department policy when determining the overissuance amount. After this review, it is determined that the Department correctly calculated income and did budget the 20 percent earned income deduction. See Exhibit 1, pp. 1-7. The budgets for January and February 2014 were reviewed in detail during the hearing, and the remainder of the budgets were reviewed by

the undersigned to determine whether the Department correctly included the proper income when calculating the overissuance. The overissuance budget for June 2014 was reviewed after the hearing by the undersigned and was determined to be correct. In that instance, the income for April 2014 and May 2014 was deducted from the quarter total of \$ [REDACTED] and correctly determined that the June 2014 income was \$ [REDACTED] Exhibit 1. Thus, based on this review, it is determined that the Department correctly calculated the amount of each monthly overissuance for the months in question and correctly determined the total overissuance amount to be \$ [REDACTED]

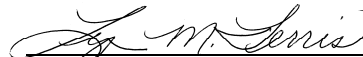
The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that the Department **did** establish an FAP benefit OI to Respondent totaling \$ [REDACTED]

DECISION AND ORDER

Accordingly, the Department is **AFFIRMED**.

The Department is **ORDERED** to initiate collection procedures for an \$ [REDACTED] OI in accordance with Department policy.

LMF/jaf



Lynn M. Ferris

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]

Petitioner

[REDACTED]

Authorized Hearing Rep.

[REDACTED]

CC:

[REDACTED]