



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: May 27, 2016
MAHS Docket No.: 16-005058
Agency No.: [REDACTED]
Respondent: [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 3-way telephone hearing was held on May 18, 2016, 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 from November 1, 2014 through October 31, 2015?

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], due to Department's error.
3. The Department alleges that Respondent received \$2,863.00 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, when a client group receives more benefits than they are entitled to receive, the Department must attempt to recoup the OI. BAM 700 (January 2016), 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.4. 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.6. The amount of the OI is the benefit amount the client actually received minus the amount the client was eligible to receive. BAM 715 (January 2016), p. 6.

In this case, the Department alleges that Respondent received a \$2,847.00 FAP OI due to Agency error from [REDACTED]. The Department acknowledged that Respondent submitted a Redetermination on [REDACTED] and indicated that she would receive earnings as of [REDACTED]. The Department further acknowledged that Respondent submitted a Redetermination on [REDACTED], in which she reported her earnings. The Department confirmed that on [REDACTED], it received correspondence from Respondent's employer stating that she would return to work on [REDACTED]. As such, the Department was provided the necessary information to correctly calculate Respondent's eligibility for FAP benefits.

Respondent's earned \$1,090.16 each week. The Department provided FAP OI budgets for review. A review of the FAP OI budgets from November 2014 through October 2015 (except June, July and August 2015, as Respondent did not work during these months), showed that when Respondent's uncalculated earned income was included in the calculation of her FAP budget, she had been overissued FAP benefits in the amount of \$2,863.00. Thus, the Department is entitled to recoup or collect from Respondent \$2,863.00 for benefits issued between November 2014 through October 2015; except June, July and August 2015.

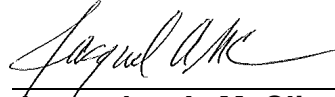
The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that the Department did establish a FAP benefit OI to Respondent totaling \$2,863.00. The Department is therefore allowed to recoup \$2,863.00 from Respondent.

DECISION AND ORDER

Accordingly, the Department is **AFFIRMED**.

The Department is ORDERED to initiate collection procedures for a \$2,863.00 FAP OI 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 (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]

Respondent

[REDACTED]