



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
Christopher Seppanen
Executive Director

SHELLY EDGERTON
DIRECTOR



Date Mailed: November 1, 2016
MAHS Docket No.: 16-011955
Agency No.: [REDACTED]
Petitioner: [REDACTED]
Respondent: [REDACTED] [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 Department was represented by [REDACTED] [REDACTED] Recoupment Specialist. [REDACTED] [REDACTED] the Respondent, appeared on her own behalf. Respondent's daughter, a minor child, was also present.

During the hearing proceeding, the Department's Hearing Summary packet was admitted as Exhibit A, pp. 1-76.

ISSUE

Did Respondent receive an over-issuance (OI) 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 OI during the period January 1, 2016, through June 30, 2016, due to Respondent's error. (Exhibit A, pp. 1-2)

3. The Department alleges that Respondent received \$ [REDACTED] OI that is still due and owing to the Department. (Exhibit A, pp. 1-2)

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, DHS must attempt to recoup the overissuance (OI). An OI 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 OI is also the amount of benefits trafficked (traded 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, the Department is to 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.

Client and agency errors are not pursued if the estimated amount is less than \$250 per program. BAM 700, p 9.

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, July 1, 2015, pp. 10-11.

BEM 212, address FAP group composition. In part the policy states:

RELATIONSHIPS

The relationship(s) of the people who live together affects whether they must be included or excluded from the group. First, determine if they **must**

be included in the group. If they are **not** mandatory group members, then determine if they purchase and prepare food together or separately.

Spouses

Spouses who are legally married and live together **must** be in the same group.

Parents and Children

Children include natural, step and adopted children.

Parents and their children **under** 22 years of age who live together **must** be in the same group regardless of whether the child(ren) have their own spouse or child who lives with the group.

In general, persons who live together and purchase and prepare food together are members of the FAP group.

BEM 212, October 1, 2015, pp. 1 and 6.

Here, the Department contends that Respondent received an OI of FAP benefits due to Respondent's error. The Department asserts that Respondent failed to timely report an income change.

Respondent applied for FAP in September 2015, at which time she did not request benefits for her living together partner (LTP). At that time the LTP was not a mandatory group member because there was no child in common. Further, Respondent reported that the LTP does not buy or fix food with the household. Accordingly, at that time there was no need to report or verify the LTP's income. (Exhibit A, pp. 55-73; Recoupment Specialist Testimony)

On November 26, 2015, Respondent gave birth to her daughter and notified the Department on November 30, 2015. The LTP is the father of that child, which made the LTP a mandatory FAP group member. (Recoupment Specialist Testimony; Exhibit A, p. 46)

On December 28, 2015 a Redetermination for the Medical Assistance program was submitted reporting all group members, but did not provide income information about the LTP. It is noted that Respondent reported the LTP does buy, fix, or eat food with the household. (Exhibit A, pp. 49-54) On January 27, 2016, a Semi-Annual Contact Report for FAP was submitted reporting all group members but did not provide income information about the LTP. It is noted that Respondent reported the LTP does buy, fix, or eat food with the household. (Exhibit A, pp. 47-48)

A Wage Match was received for the LTP for the first quarter of 2016. (Exhibit A, pp. 74-75) On June 6, 2016, the Department worker sent Petitioner a DHS-38 Verification of Employment to verify the LTP's income. This was completed and returned on June 22, 2016. (Exhibit A, pp. 24-26)

The FAP budgets were re-calculated for the period of January 2016 through June 2016 with the corrected group size and household income. Respondent was not eligible for any FAP benefits during that time. Accordingly, the Department is seeking recoupment of the total amount of FAP Petitioner received from January 2016 through June 2016. (Exhibit A, pp. 27 -39; Recoupment Specialist Testimony)

Respondent testified that she was not trying to pull a fast one on the Department. Respondent explained that she timely reported the birth. The Caseworker at that time called and Respondent provided the information requested regarding the LTP, such as where he works and his social security number. Respondent thought everything was okay and that she provided the right information. When the Department did request the income verification for the LTP, Respondent returned it right away. Petitioner had a few caseworkers, and was assisted by a Department worker in the lobby when she was filling out information. Respondent thought everything was okay when benefits were loaded on the card reimbursing her for benefits for past months. (Respondent Testimony)

There may have been some confusion because the LTP was not a FAP group member in the past because there was no child in common and it was originally reported that the TLP did not buy, fix, or eat food with the household. Accordingly, at that time there was no need to report or verify the LTP's income. However, once there was a child in common the LTP was a mandatory group member and his income had to be considered. (Exhibit A, pp. 55-73; Recoupment Specialist Testimony)

Respondent's testimony that she tried to provide the Department with the needed information is found partially credible. Respondent did write and/or correct the names of the newborn and the LTP on the December 29, 2015, Redetermination as well as the January 4, 2016, Semi-Annual Contact Report. Respondent even marked that the LTP does buy, fix, or eat food with the household on these forms. However, Respondent failed to report any income information for the LTP on these documents despite her testimony acknowledging that when she reported the birth to the Department the worker asked for information about the LTP, including employment information. (Exhibit A, pp. 47-54)

This Administrative Law Judge has carefully considered and weighed the testimony and other evidence in the record. When Respondent's FAP group'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 Ols greater than \$ [REDACTED]. Accordingly, the

Department properly pursued Respondent's FAP benefit OI of \$ [REDACTED] that resulted from the failure to report income information for all household members.

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 \$ [REDACTED]

DECISION AND ORDER

Accordingly, the Department is **AFFIRMED**.

The Department is ORDERED to initiate collection procedures for a \$ [REDACTED] OI 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]