



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 20, 2016
MAHS Docket No.: 16-011956
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 October 5, 2016, from Lansing, Michigan. Participants on behalf of the Department included Recoupment Specialist [REDACTED] Respondent and his spouse [REDACTED] appeared and testified. Department's Exhibit A pages 1 – 49 was admitted into evidence.

ISSUE

Did Respondent receive a \$ [REDACTED] Client Error over-issuance of Food Assistance Program benefits from April 1, 2014 to June 30, 2014?

FINDINGS OF FACT

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

1. On September 4, 2013, [REDACTED] Respondent's wife, submitted an online Assistance Application (DHHS-1171) for Food Assistance Program (FAP) benefits. [REDACTED] electronically signed the application certifying notice of the requirement to report changes in 10 days.
2. On January 10, 2014, [REDACTED] began receiving earned income from employment. The income was not reported to the Department.

3. On June 28, 2014, Petitioner was sent a Wage Match Client Notice (DHS-4638).
4. On September 3, 2014, the Department received verification of [REDACTED] employment and income from [REDACTED]
5. On October 5, 2013, Respondent's Food Assistance Program (FAP) benefit group was sent notice that they were approved for Food Assistance Program (FAP) benefits based on no income, earned or unearned.
6. April 1, 2014 to June 30, 2014 has been properly determined as the over-issuance period caused by this Client Error.
7. Due to the Client Error of not reporting [REDACTED] earned income Respondent's Food Assistance Program (FAP) benefit group received a \$[REDACTED] over-issuance of Food Assistance Program benefits during the over-issuance period.
8. On August 3, 2016, Respondent was sent a Notice of Over-Issuance (DHS-4358).
9. On August 18, 2016, Respondent submitted a hearing request.
10. On August 29, 2016, the Department requested this Debt Establishment hearing on behalf of Respondent.

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 an online Assistance Application (DHS-1171) dated September 4, 2013 which indicated the Food Assistance Program (FAP) benefit group had no income, earned or unearned. Respondent's spouse electronically signed and submitted the application to the Department prior to the alleged over-issuance period. The application establishes that the Food Assistance Program (FAP) benefit group was provided reporting requirements and the recoupment responsibilities of receiving assistance.

During this hearing Respondent and his spouse [REDACTED] testified that as soon as [REDACTED] got the job she let the case worker know. The Department submitted the correspondence history for the [REDACTED] case between January 2013 and September 21, 2016 which shows all mailings to the clients. When a change of income is reported, the Department's process is to send the recipient a Verification Checklist (DHHS-3503) and/or Verification of Employment (DHHS-38) form to be completed by the employer and returned. After January 10, 2014, the date [REDACTED] began employment, the correspondence history does not show any Verification Checklist (DHHS-3503) or Verification of Employment (DHHS-38) forms were sent out until after the Wage Match Client Notice (DHS-4638) was sent out on June 28, 2014.

Based on the totality of the evidence in the record, the assertion that the employment was reported, is not found credible.

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 error which caused this over-issuance was Respondent's failure to report the start of earned income on January 10, 2014. Applying the over-issuance period definition, the over-issuance period began March 1, 2014.

Over-issuance Amount

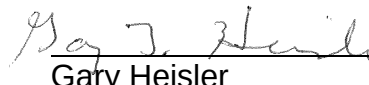
BAM 705 Agency Error Over-Issuances and BAM 715 Client/CDC Provider Error Over-Issuances, states the over-issuance amount is the benefit amount the group actually received minus the amount the group was eligible to receive. The Department presented a benefit summary showing that the State of Michigan issued a total of \$[REDACTED] of Food Assistance Program (FAP) benefits to Respondent during the over-issuance period. The over-issuance budgets submitted by the Department were reviewed and found to be correct. The over-issuance budgets show that Respondent was only eligible for \$[REDACTED] of Food Assistance Program (FAP) benefits during the over-issuance period. Respondent received a \$[REDACTED] over-issuance of Food Assistance Program (FAP) benefits.

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 which the Department is entitled to recoup in accordance with Department policy.

The actions of the Department in this matter are **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]