



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 19, 2016
MAHS Docket No.: 16-012481
Agency No.: [REDACTED]
Petitioner:
Respondent: [REDACTED]

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

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 three-way telephone conference hearing was held on October 12, 2016, from Lansing, Michigan.

The Department was represented by [REDACTED], Recoupment Specialist (RS). [REDACTED], Eligibility Specialist (ES), testified as a witness for the Department. [REDACTED], Family Independence Manager (FIM)/Hearings Coordinator (HC) also appeared at the hearing on behalf of the Department. [REDACTED] (Respondent) represented herself. [REDACTED], Respondent's Living Together Partner (LTP) appeared as a witness for Respondent.

Respondent offered the following documents which were admitted into evidence as **Exhibit 1**: Hearing Summary, Hearing Request for Overissuance or Recoupment Action (page 1), Bridges Claim Detail (page 2), Emails (pages 3-4), Bridges Case Comments Summary (page 5), Notice of Overissuance (page 6), Overissuance Summary (page 7), Overissuance Summary (pages 8-9), FAP OI Budgets (pages 10-43), Verification of Employment (pages 44-46), Verification of Employment (pages 47-48), IG-011 Employee Wage History (page 49), Redetermination (pages 50-53), Assistance Application-online (pages 54-70), Redetermination (pages 71-76), Assistance Application-online (pages 77-95).

Petitioner did not have any exhibits that were admitted into evidence.

ISSUE

Did the Respondent receive an overissuance (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 past recipient of FAP benefits from the Department. [Exhibit 1, p. 2].
2. The Department contends that Respondent received FAP benefits from the Department in the amount of \$ [REDACTED] during the period of December 1, 2014, through April 30, 2014 (OI period). [Exh. 1, pp. 6-9].
3. The Department alleges that Respondent was eligible to receive \$ [REDACTED] in FAP benefits during the alleged OI period. [Exh. 1, pp. 6-9].
4. The Department alleges that Respondent received \$ [REDACTED] FAP OI that is still due and owing to the Department. [Exh. 1, pp. 6-9].
5. The Department alleges the OI of FAP benefits was due to Respondent's error. [Exh. 1, pp. 6-7].
6. The Department contends that the alleged FAP OI was discovered on March 22, 2016. [Exh. 1, p. 3].
7. On August 25, 2016, the Department mailed Respondent a Notice of Overissuance (DHS-4358-A), Overissuance Summary (DHS-4358-B), and Department and Client Error Information and Repayment Agreement (DHS-4358-C). [Exh. 1, pp. 6-9].
8. On or about September 7, 2016, Respondent returned a completed Hearing Request for Overissuance or Recoupment Action (DHS-4358-D) form, which contained a request for hearing to dispute the proposed action. [Exh. 1, p. 1].
9. On or about September 13, 2016, the Department forwarded the matter to the Michigan Administrative Hearing System (MAHS). [Exh 1, Hearing Summary]
10. On September 27, 2016, the MAHS issued a Notice of Debt Collection Hearing to all interested parties which scheduled a telephone hearing for October 12, 2016.
11. The telephone hearing occurred on October 12, 2016.

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, MDHHS must attempt to recoup the overissuance. BAM 700 (10-1-2016), p. 1. An **overissuance** is the amount of benefits issued to the client group or CDC provider in excess of what it was eligible to receive. BAM 700, p. 1. **Recoupment** is a MDHHS action to identify and recover a benefit overissuance. BAM 700, p. 2.

BAM 700 indicates that the three types of overissuances are agency error, client error and CDC provider error. BAM 700, pp. 4-8. An **agency error** is caused by incorrect action (including delayed or no action) by MDHHS staff or department processes. BAM 700, p. 4. [Emphasis added]. 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. [Emphasis added]. A CDC **provider error** is an unintentional or inadvertent error made by the provider who reported incorrect information or failed to report information to the department. BAM 700, p. 7.

The Department's computer system known as "Bridges" will help determine who must be included in the FAP group prior to evaluating the non-financial and financial eligibility of everyone in the group. FAP group composition is established by determining all of the following: (1) who lives together; (2) the relationship(s) of the people who live together; (3) whether the people living together purchase and prepare food together or separately; and (4) whether the person(s) resides in an eligible living situation. BEM 212, p. 1 (10-1-2015).

The relationship(s) of the people who live together affects whether they must be included or excluded from the group. First, the Department must determine if they must be included in the group. If they are not mandatory group members, then the Department must determine if they purchase and prepare food together or separately. BEM 212, p. 1.

Spouses who are legally married and live together must be in the same group. 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. But for ongoing and intake applications where the child is not yet 22, they are potentially eligible for their own case, the month after turning 22. BEM 212, p. 1.

“Living with” means sharing a home where family members usually sleep and share any common living quarters such as a kitchen, bathroom, bedroom or living room. BEM 212. Persons who share only an access area such as an entrance or hallway or non-living area such as a laundry room are not considered living together. BEM 212, p. 3.

BAM 725 (10-1-2016) governs collection actions and explains repayment responsibility, Benefit Recovery System data management, and the various collection processes used by MDHHS.

In this case, the Department alleges that on March 22, 2016, it discovered that Respondent received a \$ [REDACTED] overissuance in FAP benefits during the December 1, 2014, through April 30, 2014 (OI period). During the hearing, the Department offered the testimony of Eligibility Specialist (ES) [REDACTED]. [REDACTED] testified that she has been Respondent’s caseworker since February 2014. [REDACTED] also stated that in March 2016, she communicated with Respondent’s caseworker from the Office of Child Support (OCS), [REDACTED], who indicated that [REDACTED] (Respondent’s LTP) is the biological father of one of Respondent’s group member/minor children (“Child A¹”). According to [REDACTED], [REDACTED] reported that Respondent’s LTP is employed at [REDACTED] in [REDACTED] and has been living in Respondent’s home consistently since Child A was born. [REDACTED] stated that her conversations with [REDACTED] are also contained in a series of emails between them on March 22, 2016. [Exh. 1, p. 3]. According to the Department, Respondent received an overissuance of FAP benefits because she failed to timely and properly disclose that her LTP was a household group member.

Respondent disputes the Department’s contentions concerning the allegation of a client error. Respondent says that on February 5, 2016, she sent to the Department a completed change of address form which indicated that her LTP was going to live with her effective in March. Respondent also testified that she did not tell [REDACTED] that her LTP was living in the home but said that he was providing Child A with financial support. According to Respondent, [REDACTED] misconstrued their conversation. [REDACTED], Respondent’s LTP, also testified that he previously lived with his mother in [REDACTED], before he moved into the home with Respondent in March 2016.

The Administrative Law Judge has carefully considered and weighed the testimony and other evidence in the record. The Department’s witnesses and the record evidence was more credible than Respondent’s testimony. [REDACTED] testimony is consistent with the emails that were made contemporaneously in this case. This Administrative Law Judge finds that Respondent received an OI of FAP benefits due to a client error. This was a client error because the evidence shows that on March 22, 2014 Respondent

¹ Child A was born on [REDACTED].

submitted an application for FAP benefits and only included herself and her children on the application. However, Respondent did not include her LTP. [Exh. 1, pp. 77-94]. The record shows that Respondent sent the Department a second application for FAP benefits on April 13, 2015, where she again failed to mention that her LTP was a household group member. [Exh. 1, pp. 54-69]. This meets the definition of a client error under BAM 700.

With regard to the overissuance, Respondent did not directly dispute the Department's calculations that she received an overissuance of FAP benefits nor did she dispute the calculations and figures in the budgets contained in the record. There is no dispute that Respondent's LTP was a mandatory group member as he was "living with" Respondent's group during the overissuance period. This record also shows that Respondent's LTP was employed at [REDACTED] and received earned income during the relevant time period. [Exh. 1, pp. 50-53]. The Department included overissuance budgets which showed that during the overissuance period (December 2014 through April 2016), Respondent received an overissuance of FAP benefits in the amount of \$[REDACTED]. [Exh. 1, pp. 10-43].

Accordingly, the material, competent, and substantial evidence on the whole record shows that Respondent received an overissuance (OI) of FAP benefits in the amount of \$[REDACTED] due to a client error. The OI period was from December 1, 2014, to April 30, 2016.

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**.

IT IS ORDERED that the Department **may** initiate collection procedures for a \$[REDACTED] FAP OI in accordance with Department policy.

CAP/mc



C. Adam Purnell
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]