



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: December 27, 2016
MAHS Docket No.: 16-015894
Agency No.: [REDACTED]
Petitioner: MDHHS
Respondent: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

DEBT ESTABLISHMENT HEARING DECISION

Upon the request for a hearing by the Michigan Department of Health and Human Services (MDHHS), 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 November 28, 2016, from Detroit, Michigan. The Michigan Department of Health and Human Services (MDHHS) was represented by [REDACTED], recoupment specialist. Respondent did not appear.

ISSUE

The issue is whether MDHHS established a debt against Respondent for over-issued 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. From March 2016 through June 2016, Respondent was an ongoing FAP benefit recipient.
2. From March 2016 through June 2016, Respondent received ongoing employment income.
3. From March 2016 through June 2016, MDHHS issued [REDACTED] in FAP benefits to Respondent, in part, without factoring Respondent's employment income.

4. Based on Respondent's average quarterly employment earnings, Respondent received [REDACTED] in over-issued FAP benefits.
5. On [REDACTED], MDHHS mailed Respondent a Notice of Overissuance alleging Respondent received [REDACTED] in over-issued FAP benefits from March 2016 through June 2016 due to agency error.
6. On [REDACTED], MDHHS requested a hearing to establish a debt of [REDACTED] from over-issued FAP benefits from March 2016 through June 2016.

CONCLUSIONS OF LAW

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. MDHHS (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-.3011. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT). Emergency Relief Manual (ERM).

MDHHS requested a "debt collection" hearing. The purpose of the hearing is to establish a debt against Respondent for previously over-issued benefits.

When a client group receives more benefits than it is entitled to receive, MDHHS must attempt to recoup the overissuance. BAM 700 (January 2016), p. 1. An overissuance [bold lettering removed] is the amount of benefits issued to the client group or CDC provider in excess of what it was eligible to receive. *Id.* Recoupment [bold lettering removed] is a MDHHS action to identify and recover a benefit overissuance. *Id.*, p. 2.

[MDHHS] may request a hearing to... establish a collectable debt on closed cases. BAM 600 (October 2015), p. 4. MDHHS 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. BAM 725 (October 2015), pp. 16-17. Active recipients are afforded their hearing rights automatically, but MDHHS must request hearings when the program is inactive.... *Id.*, p. 17.

MDHHS presented a Notice of Overissuance (Exhibit 1, p. 12) dated [REDACTED]. The notice alleged Respondent received [REDACTED] in over-issued FAP benefits from March 2016 through June 2016.

The Notice of Overissuance and MDHHS testimony conceded the overissuance was MDHHS' fault. Respondent's hearing request stated she should not be held responsible for repaying over-issued FAP benefits that were issued due to MDHHS' error.

Overissuances may be pursued if they are client caused or agency caused. [For FAP benefits,] client and Agency errors are not pursued if the estimated amount is less than \$250 per program. BAM 700 (October 2015), p. 9. The alleged overissuance of the present case exceeds \$250; therefore, MDHHS may pursue the alleged over-issuance of FAP benefits, even if they were at fault for the OI.

MDHHS testimony indicated FAP benefit issuances to Respondent from March 2016 through June 2016 failed to factor Respondent's employment income.

MDHHS presented a document listing Respondent's past employment earnings for yearly quarters (Exhibit 1, p. 15). The document is known to list information based on employer reporting to the Michigan Department of Treasury. Respondent's earnings for the first quarter of 2016 were listed to be [REDACTED]. Respondent's second quarter earnings were listed as [REDACTED].

MDHHS presented OI budgets for each month from March 2016 through June 2016 (Exhibit 1, pp. 4-11). The OI budget for March 2016 factored Respondent's earnings to be a third of Respondent's first quarter earnings. The OI budgets for April through June 2016 factored Respondent's earnings to be a third of Respondent's second quarter earnings. Each budget credited Respondent with a 20% employment income credit. The presented budgets appeared to properly calculate the OI of benefits.

MDHHS presented a history of Respondent's FAP eligibility (Exhibit 1, p. 1). A FAP benefit issuance of [REDACTED] was listed for March 2016. Issuances of [REDACTED] were listed from April 2016 through June 2016. The issuances were consistent with a Notice of Case Action (Exhibit 1, p. 19-21) dated [REDACTED], and a FAP budget from March 2016 (Exhibit 1, pp. 17-18).

MDHHS presented an Issuance Summary (Exhibit 1, p. 3). The summary appeared to accurately summarize presented OI budgets. The summary listed a total OI of [REDACTED] over the period from March 2016 through June 2016.

MDHHS testimony indicated Respondent's employer from the alleged OI period was contacted in an attempt verify Respondent's precise employment income from March 2016 through June 2016. MDHHS testimony indicated Respondent's employer was unresponsive.

Presented evidence verified MDHHS over-issued [REDACTED] in FAP benefits to Respondent for the period from March 2016 through June 2016. Accordingly, MDHHS established a debt against Respondent for [REDACTED].

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS established a basis for debt collection against Respondent for

██████ in over-issued FAP benefits for the period from March 2016 through June 2016. The MDHHS request to establish a debt against Respondent is **APPROVED**.

CG/hw



Christian Gardocki
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]