



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 24, 2016
MAHS Docket No.: 15-018253
Agency No.: [REDACTED]
Petitioner: [REDACTED]
Respondent: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 [REDACTED], from Detroit, Michigan. The Department was represented by [REDACTED], Recoupment Specialist. The Respondent did not appear.

This matter having been initiated by the Department and due notice having been provided to Respondent, the hearing was held in Respondent's absence in accordance with Department of Health and Human Services Bridges Administrative Manual (BAM) 725 (July 2014), pp. 16-17.

ISSUE

Did 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 recipient of FAP benefits from the Department. The Respondent applied for FAP benefits on [REDACTED]. Exhibit 1, pp. 41-85.

2. The Department alleges Respondent received an FAP OI during the period [REDACTED], through [REDACTED], due to **Respondent's** error resulting in an OI in the amount of \$ [REDACTED].
3. The Respondent was a change reporter, which required that he report changes within 10 days of changes in income. Exhibit 1, pp. 33-34.
4. The Department alleges Respondent received an FAP OI during the period [REDACTED], through [REDACTED], due to **Department's** error resulting in a \$ [REDACTED] OI.
5. The Department sent the Respondent the Notice of Overissuances on [REDACTED]. Exhibit 1, pp. 7-12 and pp. 17-20.
6. The Respondent requested a timely hearing on [REDACTED].
7. The Department alleges that Respondent received \$ [REDACTED] 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, in this case, the Department seeks to recoup FAP benefits issued to the Respondent, which it alleges the Respondent was not eligible to receive due to income from employment which was not timely reported by the Respondent. The Respondent's failure to report the earned income resulted in an OI of FAP benefits in the amount of \$ [REDACTED] for the period [REDACTED], through [REDACTED]. The Department discovered the OI when it received a Wage Match Client Notice and a Wage Verification of employment completed by Respondent's employer. Exhibit 1, pp. 39-40.

The Department also seeks to recoup FAP benefits due to Agency Error when the Respondent reported earnings due to a new employment on [REDACTED]; but the Department failed to budget the earnings timely which resulted in an OI of FAP in the amount of \$ [REDACTED] for the period [REDACTED], through [REDACTED].

Department policy states that 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. BAM 725 (July 2014), pp. 16-17. Active recipients are afforded their hearing rights automatically, but DHHS must request hearings when the program is inactive. BAM 725, p. 17, and see also BAM 715 (July 2014), pp. 11-12.

The OI amount is the benefit amount the group or provider actually received minus the amount the group was eligible to receive in order to establish a client OI, the amount must be more than \$ [REDACTED] BAM 715 (January 1, 2016), p. 6.

In this case, the OI resulted from both a client error and an agency error.

A **client error**, exists when the client's timely request for hearing results in the suspension of the Michigan Department of Health and Human Services action and any of the following: the hearing decision upholds the MDHHS action, the client withdraws the hearing request or the client fails to appear for the hearing which is not rescheduled. In this case client error results as a result of the issuance of this Hearing Decision and the client failing to appear for the hearing he requested. BAM 715, p. 1.

An **agency error** is caused by incorrect actions (including delayed or no action) by the Michigan Department of Health and Human Services (MDHHS) staff or Department processes. Some examples are:

Available information was not used or was used incorrectly. BAM 715 (January 1, 2016), p. 1.

As regards a FAP recipient's reporting responsibilities Department policy provides:

Clients must report changes in circumstance that potentially affect eligibility or benefit amount. BAM 105 (April 1, 2016), pp. 11-12. Changes must be reported within 10 days of receiving the first payment reflecting the change. BAM 105, p. 11.

Income reporting requirements are limited to the following:

- Earned income:
 - Starting or stopping employment.
 - Changing employers.
 - Change in rate of pay.
 - Change in work hours of more than five hours per week that is expected to continue for more than one month.

BAM 105, p. 11.

Other changes must be reported within 10 days after the client is aware of them. BAM 105, pp. 11-12. These include, but are not limited to, changes in daycare needs or providers. BAM 105, pp. 7-8.

The Department discovered the OI when it received a Wage Match Client Notice and a Wage Verification of employment completed by Respondent's employer. Exhibit 1, pp. 29-31.

In this case, the evidence presented clearly demonstrated that the Respondent failed to report employment, which began [REDACTED], and resulted in an OI for the period [REDACTED] through [REDACTED]. Exhibit 1, pp. 13-16. The Department presented OI budgets for the months based on unreported income, which was determined based on the Work Number. Based upon the review of these budgets in both months, the Respondent's earned income, which was unreported, caused him to receive more FAP benefits than he was entitled to receive. In addition, because the OI was due to client error, the Department correctly did not grant the Respondent the earned income deduction.

The Department presented OI budgets for the period [REDACTED] through [REDACTED], [REDACTED]. The unreported income was determined based upon the Work Number for the periods in question based on weekly pays for the period. Exhibit 1, pp. 35-38.

Based upon a review of these budgets in both months, the Respondent's earned income, which was unreported, exceeded the FAP gross income limit of \$ [REDACTED] causing him to be ineligible based on his earned income exceeding the FAP gross income limit.

The Budgets referenced above were reviewed at the hearing, and the unreported earned income used to calculate the OI was cross-referenced with the Work Number. Based on this review the Department clearly established that for the months in question the Respondent received an OI in the amount of \$ [REDACTED]. The Department also established that the Respondent was aware that he was required to report changes within 10 days of the change when it provided a Change Report to Respondent with the Notice of Case Action dated [REDACTED], approving the Respondent's FAP application.

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that the Department **did** establish an 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.

LMF/jaf



Lynn M. Ferris
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]

CC:

[REDACTED]