



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: January 30, 2017  
MAHS Docket No.: 16-019057  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]  
Respondent: [REDACTED] [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 hearing was held on January 25, 2017, from Lansing, Michigan. [REDACTED] [REDACTED] Recoupment Specialist (RS) appeared on behalf of the Department. 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 (10-1-2016), pp. 16-17.

### **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. [Department's Exhibit 1, p. 25].
2. The Department alleges Respondent received an OI of FAP benefits during the period December 1, 2015, through July 31, 2016, due to Respondent's error. [Dept. Exh. 1, pp. 1-2, 10].

3. The Department contends that the alleged FAP OI was discovered on May 16, 2016. [Dept. Exh. 1, pp. 34-36].
4. The Department alleges that Respondent received \$ [REDACTED] OI that is still due and owing to the Department. [Dept. Exh. 1, pp. 1-2, 10].
5. On December 9, 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). [Dept. Exh. 1, pp. 1-5].
6. On December 21, 2016, Respondent returned a completed Hearing Request for Overissuance or Recoupment Action (DHS-4358-D) form, which contained a formal request for a hearing to dispute the proposed action. [Request for Hearing].
7. On or about December 21, 2016, the Department forwarded the matter to the Michigan Administrative Hearing System (MAHS).
8. On January 11, 2017, the MAHS issued a Notice of Debt Collection Hearing to all interested parties which scheduled a telephone hearing for January 25, 2017.
9. The telephone hearing occurred on January 25, 2017.
10. During the hearing, the Department RS testified that Respondent received a FAP OI during the period December 1, 2015, through July 31, 2016, due to Respondent's error. The Department RS further stated that Respondent failed to timely report self-employment income until May 16, 2016. According to the Department RS, Respondent received earned income from self-employment in the amount of \$ [REDACTED] per month with a \$ [REDACTED] business expense, but this income was not budgeted due to the failure to report.
11. The Administrative Law Judge has carefully considered and weighed the testimony and other evidence in the record.
12. The Department RS testimony was credible as it was logical and consistent with the documentation in the record.
13. Respondent did receive an OI of FAP benefits in the amount of \$ [REDACTED] issued by the Department.
14. The FAP OI was due to client error because Respondent failed to timely report earned income from self-employment.
15. The OI period was from December 1, 2015, to July 31, 2016.

## CONCLUSIONS OF LAW

Department policies are contained in the Michigan Department of Health and Human Services (Department or MDHHS) 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]. For FIP, SDA, CDC and FAP, agency errors are not pursued if the estimated amount is less than \$250 per program. BAM 700, p. 5. For FIP, SDA and FAP, the agency error threshold was raised to \$250 from \$125 with an effective date of December 1, 2012. BAM 700, p. 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. [Emphasis added]. A client error also exists when the client's timely request for a hearing result in deletion of a MDHHS action, **and any of the following occurred:** (1) the hearing request is later withdrawn; (2) MAHS denies the hearing request; (3) the client or administrative hearing representative fails to appear for the hearing and MAHS gives MDHHS written instructions to proceed; and (4) the hearing decision upholds the department's actions. BAM 700, p. 6. [Emphasis in original].

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.

For all programs, repayment of an overissuance is the responsibility of anyone who was an eligible, disqualified, or other adult in the program group at the time the overissuance occurred or a FAP-authorized representative if they had any part in creating the FAP overissuance. BAM 725, p. 1.

The rules for active and inactive programs are different. All cases that contain an adult member from the original overissuance group and are **active** for the program in which the overissuance occurred are liable for the overissuance and subject to administrative recoupment. BAM 725, p. 3. [Emphasis added]. Overissuances on **inactive** programs are recouped through cash repayment processes. Collection notices are sent to the household on the inactive case. BAM 725, p. 3. [Emphasis added].

For FIP, SDA, CDC, MA and FAP, 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. Active recipients are afforded their hearing rights automatically, but MDHHS must request hearings when the program is inactive.

In this case, the material, competent, and substantial evidence on the whole record shows that Respondent received an OI of FAP benefits in the amount of \$ [REDACTED] due to client error. The client error occurred after Respondent failed to timely report that she received earned income from self-employment until May 16, 2016. [Dept. Exh. 1, pp. 34-36]. Department policy requires FAP recipients to report changes in circumstances that potentially affect eligibility or benefit amount. BAM 105 (10-1-2016), pp. 10-11. Specifically, they must report changes in circumstances within 10 (ten) days after the client is aware of them. BAM 105, p 10. These changes include, but are not limited to, changes regarding: (1) persons in the home; (2) marital status; (3) address and shelter cost changes that result from the move; (4) vehicles; (5) assets; (6) child support expenses paid; (7) health or hospital coverage and premiums; or (8) child care needs or providers. BAM 105, pp. 10-11.

The record evidence also showed that Respondent received \$ [REDACTED] in FAP benefits every month during the OI period, but was only eligible for \$ [REDACTED] per month (except for March 2016, where she was not eligible for any FAP). [Dept. Exh. 1, pp. 2, 25].

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that the Department **did** establish that Respondent received a FAP benefit OI in the amount of \$ [REDACTED] for the period of December 1, 2015, through July 31, 2016.

**DECISION AND ORDER**

Accordingly, the Department is **AFFIRMED**.

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



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**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]