



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: February 22, 2017  
MAHS Docket No.: 16-014216-RECON  
Agency No.: [REDACTED]  
Petitioner:  
Respondent: [REDACTED] [REDACTED]

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

### **DENOVO REHEARING 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 denovo rehearing was held on February 21, 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.

### **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, pp. 6-19].
2. On the assistance application, Respondent indicated that she did not have any income. [Dept. Exh. 1, pp. 6-19].
3. The Department calculated Respondent's FAP benefits based, in part, on her attestation that she had \$ [REDACTED] income. [Hearing Testimony].

4. On or about May 24, 2016, the Department discovered via a wage match inquiry that Respondent received earned income from employment with [REDACTED]. [Dept. Exh. 1, p. 37].
5. On May 24, 2016, the Department mailed Respondent a Wage Match Client Notice (DHS-4638) form which requested Respondent provide wage information from her employer, [REDACTED]. The completed DHS-4638 form was due by June 23, 2016. [Dept. Exh. 1, pp. 20-21].
6. Respondent failed to return the completed DHS-4638 form. [Hrg. Test.].
7. The Department alleges Respondent received an OI of FAP benefits during the period October 1, 2015, through March 31, 2016, due to Respondent's error. [Dept. Exh. 1, p. 37].
8. The Department alleges that Respondent received \$ [REDACTED] OI that is still due and owing to the Department. [Dept. Exh. 1, p. 37].
9. On August 8, 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. 37-41].
10. On August 23, 2016, Respondent returned a signed and completed Hearing Request for Overissuance or Recoupment Action (DHS-4358-D) form, along with a formal request for a hearing to dispute the proposed action. [Dept. Exh. 1, pp. 3-5].
11. On October 4, 2016, the Department forwarded the matter to the Michigan Administrative Hearing System (MAHS).
12. On October 11, 2016, the MAHS issued a Notice of Debt Collection Hearing to all interested parties which scheduled a hearing for October 26, 2016.
13. The telephone hearing was held before Administrative Law Judge (ALJ) Gary Heisler on October 26, 2016. Respondent failed to appear and the hearing was held in Respondent's absence.
14. On November 16, 2016, ALJ Heisler issued a Decision and Order which upheld the Department and found that Respondent received an OI of FAP benefits in the amount of \$ [REDACTED] due to a client error for the period of October 1, 2015, through March 31, 2016.
15. On December 6, 2016, Respondent filed a request for rehearing/reconsideration.

16. On January 13, 2017, Supervising ALJ Lauren G. Van Steel issued an Order Granting Rehearing.
17. On January 20, 2017, the Michigan Administrative Hearing System (MAHS) mailed a Notice of Debt Collection Hearing to the parties which scheduled a *de novo* hearing for February 2, 2017.
18. On February 2, 2017, Respondent requested an adjournment. The Department did not object to Respondent's request to adjourn.
19. On February 3, 2017, the undersigned ALJ issued an Adjournment Order which granted Respondent's request to adjourn.
20. On February 8, 2017, the MAHS issued a Notice of Debt Collection Hearing, which rescheduled the hearing for February 21, 2017.

### **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 (1-1-2016), 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].

BAM 715 (1-1-2016) explains client error overissuance processing and establishment. For FAP, the overissuance 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. BAM 715, p. 5.

The overissuance period ends the month (or pay period for CDC) before the benefit is corrected. The discovery date for manual claims is the date the overissuance is known to exist and there is evidence available to determine the type. BAM 715, p. 6.

The amount of the overissuance is the benefit amount the group or provider actually received minus the amount the group was eligible to receive. BAM 715, p. 6.

For FAP, if improper reporting or budgeting of income caused the overissuance, use actual income for that income source. Bridges converts all income to a monthly amount. **Exception:** For FAP only, do not convert the averaged monthly income reported on a wage match. Any income properly budgeted in the issuance budget remains the same in that month's corrected budget. For client error overissuances due, at least in part, to failure to report earnings, do **not** allow the 20 percent earned income deduction on the unreported earnings. BAM 715, p. 8.

BAM 725 (10-1-2015) 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.

The Administrative Law Judge has carefully considered and weighed the testimony and other evidence in the record. Here, the Department's overissuance budget documents established that Respondent received FAP benefits during the above OI period in the amount of \$ [REDACTED] [Dept. Exh. 1, pp. 24-36]. The FAP OI was due to client error because the record evidence does not show that Respondent timely and properly reported to the Department that she had earned income from her employment with Screen Print Dept, Inc. [Dept. Exh. 1, p. 23]. The record further shows that the Department did correctly determine that the OI period was from October 1, 2015, to

March 31, 2016. [Dept. Exh. 1, pp. 24-36]. Therefore, the material, competent, and substantial evidence on the whole record shows that Respondent did receive an OI of FAP benefits in the amount of \$ [REDACTED]. However, it should be noted that regardless whether the OI was due to a client error or an agency error, there is no dispute concerning the amount of OI nor is there any dispute that Respondent received an OI of FAP benefits during the period indicated above.

Therefore, the Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that Respondent received an OI of FAP benefits in the amount of \$ [REDACTED] due to client error.

**DECISION AND ORDER**

Accordingly, the Department is **AFFIRMED**.

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

CAP/mc



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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]