



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 7, 2017
MAHS Docket No.: 16-014710
Agency No.: [REDACTED]
Petitioner:
Respondent: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Jacquelyn A. McClinton

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 January 9, 2017, from Detroit, Michigan. The Department was represented by [REDACTED], Eligibility Specialist. The Respondent was represented by Respondent.

ISSUE

Did Respondent receive an over-issuance (OI) of 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.
2. The Department alleges Respondent received a FAP OI during the period of [REDACTED], due to Respondent's error.
3. 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.

THE TESTIMONY AND EXHIBITS FROM DOCKET NUMBER 15-022924 HAVE BEEN INCORPORATED INTO THE HEARING AND DECISION BY AGREEMENT OF THE PARTIES.

It should be noted for the record that the Department previously brought a similar action against Respondent. A hearing was held on [REDACTED]. The Department determined that an overissuance in the amount of [REDACTED] was caused by client error and did not allow an earned income deduction. The undersigned held that the Department failed to establish client error and that the earned income deduction should have been allowed. As a result, the request to initiate collections was denied.

On [REDACTED], the Department issued a Notice of Overissuance seeking relief for an overissuance in the amount of [REDACTED]. In calculating the overissuance, the Department allowed the earned income deduction. A prehearing conference was held on [REDACTED] and the matter was scheduled for hearing relating to the [REDACTED] Notice of Overissuance.

The amount of the OI is the benefit amount the client actually received minus the amount the client was eligible to receive. BAM 715 (January 2011), p. 5; BAM 705 (July 2011) p 5. In this case, the Department alleged that the Respondent received an overissuance from [REDACTED] in the amount of [REDACTED]. The Department testified that Respondent began working with an employer on [REDACTED] and did not report the income until she submitted a Redetermination on [REDACTED]. Petitioner disagreed and testified that she placed a telephone call to her worker shortly after beginning her employment and advised her worker of the new employment.

The Department conceded that it was unable to adequately dispute whether Respondent timely reported her wages. As such, it included an earned income deduction in the calculation for overissuance. Under Department policy gross countable earned income is reduced by a 20% earned income deduction. BEM 550 (September 2010), p. 1. However, the 20% earned income deduction is not allowed when

determining overissuances due to failure to report earned income BEMM 550 (January 2010), p. 3.

Petitioner acknowledged that she was employed during the overissuance period and did not dispute the income used by the Department in calculating the overissuance. Because the Department did not include Petitioner's earnings in its original calculation when determining Petitioner's eligibility for FAP benefits, Petitioner was overissued FAP benefits. The budgets presented by the Department revealed that Petitioner received [REDACTED] during the overissuance period but was only entitled to [REDACTED] in FAP benefits, thus creating an overissuance of [REDACTED]. Accordingly, it is found that the Department has established that an overissuance occurred in the amount of [REDACTED], and it is therefore entitled to initiate collections in that amount for FAP benefits it issued to Respondent during the overissuance period.

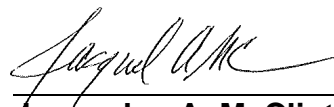
DECISION AND ORDER

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].

Accordingly, the Department is **AFFIRMED**.

The Department is **ORDERED** to initiate collection procedures in the amount of [REDACTED] in accordance with Department policy relating to a FAP OI from [REDACTED].

JM/hw



Jacquelyn A. McClinton

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]