



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 17, 2017
MAHS Docket No.: 16-019025
Agency No.: [REDACTED]
Petitioner:
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 January 23, 2017, from Detroit, Michigan. The Michigan Department of Health and Human Services (MDHHS) was represented (via telephone) by [REDACTED] [REDACTED] recoupment specialist. Respondent appeared and was unrepresented. [REDACTED], Respondent's spouse, testified on behalf of Respondent.

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. Respondent was an ongoing FAP benefit recipient.
2. Respondent received employment income beginning [REDACTED], and continuing through July 2016.
3. Respondent failed to report employment income to MDHHS during his period of employment.

4. Respondent received an OI of FAP benefits from May 2016 and July 2016 totaling \$ [REDACTED].
5. On [REDACTED], MDHHS requested a hearing to establish a debt of \$ [REDACTED] against Respondent, based on allegedly over-issued FAP benefits from May 2016 through July 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).

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, pp. 1-2) dated [REDACTED], [REDACTED]. The notice alleged Respondent received \$ [REDACTED] in over-issued FAP benefits May 2016 through July 2016. The Notice of Overissuance stated “client error” was the cause of the OI.

Respondent contended that he should not be responsible for repaying the OI, in part, because any OI issued was the fault of MDHHS. Respondent’s contention is inconsistent with MDHHS policy.

[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 regardless of the party responsible for causing the alleged OI... assuming the OI is established to exceed \$250.

MDHHS testimony alleged Respondent failed to report employment income. MDHHS presented documentation to support the occurrence of an OI.

MDHHS presented Respondent's FAP benefit issuance history (Exhibit 1, p. 6) from April 2016 through November 2016. Issuances of \$ [REDACTED] were listed for each benefit month.

MDHHS presented documentation from "TheWorkNumber.com" (Exhibit 1, pp. 17-19) concerning employment for Respondent. Various weekly pays from [REDACTED], through [REDACTED], were listed.

MDHHS presented an Issuance Summary (Exhibit 1, p. 7) and corresponding OI budgets (Exhibit 1, pp. 8-16) from May 2016 through July 2016. The budgets factored Respondent's employment income as listed on presented documents. Employment income was categorized as "unreported." The budgets calculated that Respondent received an OI of \$ [REDACTED] for May 2016, \$ [REDACTED] for June 2016, and \$ [REDACTED] for July 2016.

MDHHS presented Respondent's electronically-submitted application for FAP benefits (Exhibit 1, pp. 20-56). The application was dated [REDACTED]. The application stated Respondent's signature was certification that Respondent read the Rights & Responsibilities section; listed responsibilities included informing MDHHS of any changes, including changes in income.

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

Presented evidence verified Respondent received employment income which was not factored by MDHHS in determining Respondent's FAP eligibility from May 2016 through July 2017. The only doubt about the OI is whether the employment income was reported.

MDHHS policy requires clients to receive a 20% FAP budget credit for reported employment income (see BEM 556 (July 2013), p. 1). [MDHHS is to not allow a 20% earned income deduction when determining overissuances due to a client failure to report earned income (see BEM 720 Intentional Program Violation). BEM 556 (July 2013) p. 3.

Respondent repeatedly testified that he complied with all of his specialist's requests. Respondent's testimony seemed to specifically concern MDHHS requests to verify employment income when MDHHS eventually learned about the income. Respondent's

testimony failed to persuasively establish that Respondent reported the beginning of employment income before or during the alleged OI period.

After Respondent was advised he needed to report the income within 10 days after it started, Respondent testified he called his specialist "as soon" as he started working. When Respondent asked if he brought phone documents, he stated he did not, but his specialist responded by sending employment income verifications. MDHHS testimony indicated a Verification of Employment was mailed in August 2016. The testimony was indicative that Respondent did not report employment income to MDHHS during the alleged OI period.

Respondent's spouse testified she witnessed many phone calls by her spouse to her specialist. Respondent's testified there were many calls when Respondent's specialist did not answer the telephone. The testimony failed to address whether Respondent called MDHHS, within 10 days of the beginning of Respondent's income, to report employment income.

Presented evidence generally established that Respondent did not commit any type of fraud nor intended to receive any type of OI. Fraud was properly not alleged by MDHHS.

Respondent's testimony generally implied a contention that he is responsible only for responding to MDHHS' requests for income verification, not for reporting employment income. Respondent's implied contention is erroneous.

It is found Respondent failed to timely report employment income to MDHHS. Accordingly, the 20% penalty in the presented OI budgets was appropriate. It is found MDHHS established an OI of FAP benefits from May 2016 through July 2016 in the amount of \$ [REDACTED].

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS established a debt against Respondent for \$ [REDACTED] in over-issued FAP benefits for the period from May 2016 through July 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]