



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: March 9, 2017
MAHS Docket No.: 16-019524
Agency No.: [REDACTED]
Petitioner: DHHS
Respondent: [REDACTED] [REDACTED]

ADMINISTRATIVE LAW JUDGE: Eric J. Feldman

HEARING DECISION

Upon the request for a hearing by Respondent, 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 [REDACTED], from Detroit, Michigan. The Department was represented by [REDACTED], Recoupment Specialist, and [REDACTED] Hearings Facilitator. The Respondent was present for the hearing and represented herself. [REDACTED], a Department worker, served as translator for the hearing.

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 is an ongoing recipient of FAP benefits from the Department.
2. On [REDACTED], the Department sent Respondent a Notice of Overissuance (OI notice) informing her of an FAP OI for the period of [REDACTED], to [REDACTED], due to client error. Exhibit A, pp. 36-40. The OI notice also indicated that the OI balance was \$ [REDACTED] because she and her household members were receiving FAP benefits from the State of [REDACTED]. Exhibit A, p. 36.

3. On [REDACTED], Respondent filed a hearing request protesting the Department's action. Exhibit A, p. 46.

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.

When a client group receives more benefits than it is entitled to receive, the Department must attempt to recoup the overissuance. BAM 700 (January 2016), p. 1. The amount of the OI is the benefit amount the group or provider actually received minus the amount the group was eligible to receive. BAM 715 (January 2016), p. 6.

A client/provider error overissuance is when the client received more benefits than he/she was entitled to because the client/CDC provider gave incorrect or incomplete information to the Department. BAM 715, p. 1.

In this case, the Department alleges that Respondent failed to update residency information for the purpose of receiving FAP benefits from more than one state.

A person cannot receive FAP in more than one state for any month. BEM 222 (July 2013), p. 3. Out-of-state benefit receipt or termination may be verified by one of the following: DHS-3782, Out-of-State Inquiry; Letter or document from other state; or Collateral contact with the state. BEM 222, p. 4.

First, the Department presented Respondent's online application dated [REDACTED] in which she applied for benefits for herself and her adult daughter (date of birth - [REDACTED]) and her minor son (date of birth - [REDACTED]). Exhibit A, pp. 4-31.

Second, the Department presented Respondent's Benefit Summary Inquiry showing that she received FAP benefits during the alleged OI period. Exhibit A, pp. 32-33.

Third, the Department presented an out-of-state verification from [REDACTED] dated in [REDACTED] and [REDACTED]. Exhibit A, p. 34. The out-of-state verification from [REDACTED] showed that Respondent's and her group members' FAP benefits closed as of [REDACTED], and other dates. Exhibit A, p. 34.

In summary, the Department argued a client error OI is present because Respondent received concurrent FAP benefits from the States of Michigan and ██████████ during the alleged OI period. Therefore, the Department is requesting recoupment of the FAP benefits due to this concurrent receipt of benefits. See BEM 222, p. 3.

In response, Respondent testified that the State of ██████████ is also trying to recoup the assistance she received. Moreover, Respondent testified that the last time she was aware that she received FAP benefits from the State of ██████████ was in ██████████ of ██████████

Based on the foregoing information and evidence, the undersigned Administrative Law Judge (ALJ) finds that the Department did not satisfy its burden of showing that Respondent received an OI for the FAP benefits. See BAM 700, p. 1, and BAM 715, p. 6. In the present case, the Department alleges that Respondent and her group members received concurrent receipt of benefits from the States of Michigan and ██████████ during the alleged OI period. The Department presented evidence showing that Respondent and her group members received FAP benefits from the State of ██████████. Exhibit A, p. 34. However, an issue arose with the out-of-state verification because it failed to indicate the duration of how long she actually received FAP benefits from ██████████. Exhibit A, p. 34. Without this crucial information, the Department is unable to meet its burden of showing that Respondent received FAP benefits concurrently from ██████████ to ██████████. Even though Respondent indicated the State of ██████████ is also trying to recoup the assistance she received, the burden is on the Department to show that she received concurrent receipt of benefits, which it failed to do so in this case. Accordingly, the undersigned ALJ finds that the Department failed to satisfy its burden of showing that Respondent received concurrent benefits during the alleged fraud period; and thus, there is no client error OI present in this case.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that the Department **did not** establish an FAP benefit OI to Respondent totaling \$ ██████████ for the period of ██████████, to ██████████.

Accordingly, the Department is **REVERSED**.

The Department is **ORDERED** to delete the OI and cease any recoupment and/or collection action.

The Department is **FURTHER ORDERED** to reimburse Respondent any funds that had already been recouped and/or collected in accordance with Department policy.

EJF/jaf



Eric J. Feldman

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]

[REDACTED]