



RICK SNYDER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN ADMINISTRATIVE HEARING SYSTEM  
Christopher Seppanen  
Executive Director

SHELLY EDGERTON  
DIRECTOR

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Date Mailed: May 3, 2017  
MAHS Docket No.: 17-001582  
Agency No.: ██████████  
Petitioner: MDHHS  
Respondent: ██████████

**ADMINISTRATIVE LAW JUDGE: Christian Gardocki**

**DEBT ESTABLISHMENT HEARING DECISION**

Upon the request for a hearing by Petitioner, 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 ██████████ from Detroit, Michigan. The Michigan Department of Health and Human Services (MDHHS) was represented by ██████████ specialist, and ██████████, recoupment specialist. Respondent appeared and was unrepresented. ██████████, 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 recipient of a non-SDV FAP benefit group.
2. Respondent was a member of a 3-person FAP benefit group in ██████████ and a 4-person FAP benefit group beginning ██████████.
3. Respondent's spouse was a member of Respondent's benefit group from ██████████ through ██████████.

4. Respondent received ongoing employment income from an employer (hereinafter "Employer #1") from [REDACTED] through [REDACTED].
5. Respondent's spouse received ongoing employment income from an employer (hereinafter "Employer #2") from [REDACTED] through [REDACTED].
6. Respondent's group's total monthly employment income was as follows: [REDACTED] for [REDACTED], [REDACTED] for August 2015, [REDACTED] for September [REDACTED] for [REDACTED], and [REDACTED] for [REDACTED].
7. Respondent received the following FAP issuances: [REDACTED] for [REDACTED] for [REDACTED].
8. On [REDACTED], MDHHS requested a hearing to establish that Respondent received an over-issuance (OI) of [REDACTED] in FAP benefits from [REDACTED] through [REDACTED].

### 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 testified an OI related to client-error was initially alleged (see Exhibit 1, pp. 50-49). MDHHS testimony conceded the allegation was improper and that an updated notice was issued. The analysis will consider the updated allegation of OI.

MDHHS presented a Notice of Overissuance (Exhibit 1, pp. 61) dated [REDACTED], and corresponding Overissuance Summary (Exhibit 1, p. 62). The notice alleged Respondent received [REDACTED] in over-issued FAP benefits from [REDACTED] through [REDACTED]. The Notice of Overissuance stated "Agency Error" was the cause of the OI.

[For FAP benefits,] client and Agency errors are not pursued if the estimated amount is less than [REDACTED] per program. BAM 700 (October 2015), p. 9. The alleged overissuance of the present case exceeds [REDACTED] therefore, MDHHS may pursue the alleged overissuance of FAP benefits regardless of the party responsible for causing the alleged OI... assuming the OI is established to exceed [REDACTED].

MDHHS alleged the overissuance was caused by a failure to update Respondent's employment income. MDHHS alleged Respondent's income should have been updated because Respondent's household income exceeded simplified reporting limits.

MDHHS presented Respondent's FAP benefit issuance history (Exhibit 1, p. 36-35) from [REDACTED] through [REDACTED]. Respondent received the following FAP issuances: [REDACTED] for [REDACTED], [REDACTED] for [REDACTED] and [REDACTED], and [REDACTED] for [REDACTED] and [REDACTED].

MDHHS presented a Wage Match Client Notice (Exhibit 1, pp. 20-19) for Respondent's employment with Employer. The document was signed by a "HR/Payroll" staff member of Employer. Various pay stubs (Exhibit 1, pp. 34-21) from [REDACTED], through [REDACTED], were also presented.

MDHHS presented documents from TheWorkNumber.com concerning Respondent's spouse's employment with Employer #2. Various biweekly pay dates and amounts from [REDACTED] were listed.

MDHHS presented an Issuance Summary (Exhibit 1, p. 47) and corresponding OI budgets (Exhibit 1, pp. 46-37) from [REDACTED] through [REDACTED]. The budgets factored Respondent's FAP benefit issuance history as listed on other presented documents. The budgets factored Respondent's and her spouse's employment income as listed on presented documents. Respondent's FAP benefit group in [REDACTED] was for 3 persons. Respondent's FAP-benefit group increased to 4 in [REDACTED]. The increase in group members was consistent with Respondent's testimony that she gave birth to a child in the summer of [REDACTED]. Combined employment income factored in the budgets was as follows: [REDACTED]. MDHHS calculated that all issuances to Respondent during the alleged OI period were improper.

The gross income limit for a 3-person FAP benefit group as of [REDACTED] was [REDACTED] (see RFT 250). The gross income limit for a 4-person FAP benefit group for the remainder of the alleged OI period was [REDACTED] (see *Id.*).

BEM 556 dictates when gross income (following a 20% credit for reporting employment income) exceeds the gross income limit for groups without a senior, disabled person, or disabled veteran (SDV), the proper result is a denial of FAP benefits. There was no evidence suggesting that any members of Respondent's group were SDV members. For [REDACTED] and [REDACTED] following a 20% credit for employment income, Respondent's group's employment income did not exceed gross-income limits. For all other alleged OI months, Respondent's and her spouse's employment income exceeded the gross income limit. Thus, for all alleged OI months except for [REDACTED] [REDACTED], it can be found that Respondent was not entitled to receive any FAP benefits. Thus, MDHHS established a debt of [REDACTED] for the months of [REDACTED] [REDACTED]. The analysis will proceed to consider whether an OI was established for [REDACTED].

The budgets for [REDACTED] factored portions of Respondent's and her spouse's employment income as unreported. Factoring employment income as unreported deprives clients from receipt of a 20% employment income credit (see BEM 556).

MDHHS conceded that the alleged OI was caused by their own error. The concession justifies finding that MDHHS should have factored all of Respondent's income as reported. Thus, MDHHS should have applied a 20% credit for all employment income. It is possible that had MDHHS correctly given the credit, Respondent was still ineligible for FAP benefits; such a possibility is purely speculative. Given presented budgets, it can only be found that MDHHS failed to verify a properly-calculated OI for [REDACTED] [REDACTED]. Accordingly, MDHHS failed to establish a debt of [REDACTED] concerning [REDACTED].

### DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS established Respondent received an OI of [REDACTED] for the months of [REDACTED]. The MDHHS request to establish a debt against Respondent is **PARTIALLY APPROVED**.

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS failed to establish Respondent received an OI of [REDACTED] for the months of [REDACTED]. The MDHHS request to establish a debt against Respondent is **PARTIALLY DENIED**.

CG/hw



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**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]  
[REDACTED]

**Respondent**

[REDACTED]  
[REDACTED]  
[REDACTED]