



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: May 12, 2017
MAHS Docket No.: 17-002380
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

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 April 12, 2017, from Lansing, Michigan. The Department was represented by [REDACTED] recoupment specialist. The Respondent was represented by herself. Respondent's husband [REDACTED] also appeared testified. Department Exhibit 1-20 was received and admitted. An Interim Order was issued on April 14, 2017, to allow Respondent to submit additional documentation. Petitioner waived all timeliness requirements. Respondent's Exhibit A, pp.1-2 was received and admitted.

ISSUE

Did Respondent receive an over-issuance (OI) of Food Assistance Program (FAP) benefits due to client error?

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. Respondent failed to report her husband [REDACTED] employment income from Red Lobster and that income was not budgeted.
3. The Department alleges Respondent received a \$ [REDACTED] OI during the period November 1, 2014, through February, 29 2015, due to Respondent's error.

4. 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.

An **overissuance** is the amount of benefits issued to the client group or CDC provider in excess of what it was eligible to receive. For FAP benefits, an overissuance is also the amount of benefits trafficked (stolen, traded, bought or sold) or attempted to be trafficked. **Overissuance type** identifies the cause of an overissuance. BAM 700 (October 2016)

Client Error

All Programs

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

The Department alleged that Respondent failed to report her husband's employment income from [REDACTED]. The record clearly establishes that [REDACTED] employment income from [REDACTED] was never budgeted, therefore Respondent received more FAP benefit than she was entitled to and an overissuance occurred. The Department budgets provided at hearing establish that the amount of the overissuance was \$ [REDACTED] (Dept. Ex.1, pp. 4-11) The other issue that needs to be addressed is whether the overissuance occurred due to agency error or client error. The Department alleged that Respondent failed to report [REDACTED] employment income therefore it should be deemed client error. Petitioner testified that she provided her husband's check stubs from [REDACTED] shortly after his employment began. [REDACTED] also testified that he provided his check stubs to the Department by dropping them off at the Department [REDACTED] office. The Respondent raised issues at hearing with regard to her employment

income during the time period in question. Respondent questioned whether changes in her income because she was on medical leave that she reported during the period in question were budgeted. The Department representative testified at hearing that no changes in Respondent's income were processed during the time period. Respondent was given an opportunity to provide documentation showing that she had changes in her income during this time period that were reported to the Department. Respondent provided documents by fax but these documents did not support Respondent's testimony. (Resp. Ex.1, pp.1-2)

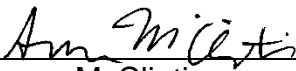
The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that the Department **did** establish a FAP benefit OI to Respondent totaling \$ [REDACTED]

DECISION AND ORDER

Accordingly, the Department is AFFIRMED.

The Department is ORDERED to initiate collection procedures for a \$ [REDACTED] FAP OI in accordance with Department policy.

AM/nr



Aaron McClintic
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]

Petitioner

[REDACTED]