



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR



Date Mailed: May 2, 2017
MAHS Docket No.: 17-003787
Agency No.: [REDACTED]
Petitioner: OIG
Respondent: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Carmen G. Fahie

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 18, 2017, from Lansing, Michigan. The Department was represented by [REDACTED] Recoupment Specialist. The Respondent was represented by herself.

ISSUE

Did Respondent receive an over-issuance (OI) of Food Assistance Program (FAP) due to Department 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. The Department alleges Respondent received a FAP OI during the period of September 1, 2014, through March 31, 2015, due to **Department's** error.
3. On August 29, 2014, the Respondent applied for FAP benefits for her and her 2 children. Department Exhibit 1, pgs. 43-62.
4. On September 2, 2014, the Respondent stated that she and her 2 children live with her mother, which required the Respondent's mother to be a mandatory group member per BEM 212 because the Respondent was 20 years old at the time of

application, which her mother's income was required to be counted and budgeted in determining her FAP eligibility. Department Exhibit 1, pg. 30.

5. On September 2, 2014, the Department sent the Respondent, a Verification of Employment, DHS 38, which was due on September 12, 2014 to provide written verification of the Respondent's mother employment income. Department Exhibit 1, pgs. 41-42.
6. On the Notice of Case Action, DHS 1605, sent by Department to the Respondent on September 2, 2014, where the Respondent was informed that she had a group size of 2 that included the Respondent's mother. Department Exhibit 1, pgs. 35-38.
7. On September 5, 2014, the Department received a letter from the Respondent's mother that the Respondent and her 2 children live with her, the Respondent's mother, at her home. Department Exhibit 1, pg. 31.
8. On September 12, 2014, the written Verification of Employment, DHS 38, was not received, but the Respondent continued to receive FAP benefits for her and the Respondent's mother. Her 2 children were not on her FAP case because they were already on the children's father's FAP case.
9. 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.

Additionally, Respondent was a recipient of FAP benefits from the Department. The Department alleges Respondent received a FAP OI during the period of September 1, 2014, through March 31, 2015, due to **Department's** error. On August 29, 2014, the Respondent applied for FAP benefits for her and her 2 children. Department Exhibit 1, pgs. 43-62. On September 2, 2014, the Respondent stated that she and her 2 children live with her mother, which required the Respondent's mother to be a mandatory group member per BEM 212 because the Respondent was 20 years old at the time of

application, which her mother's income was required to be counted and budgeted in determining her FAP eligibility. Department Exhibit 1, pg. 30.

On September 2, 2014, the Department sent the Respondent, a Verification of Employment, DHS 38, which was due on September 12, 2014 to provide written verification of the Respondent's mother employment income. Department Exhibit 1, pgs. 41-42. On the Notice of Case Action, DHS 1605, sent by Department to the Respondent on September 2, 2014, where the Respondent was informed that she had a group size of 2 that included the Respondent's mother. Department Exhibit 1, pgs. 35-38. On September 5, 2014, the Department received a letter from the Respondent's mother that the Respondent and her 2 children live with her, the Respondent's mother, at her home. Department Exhibit 1, pg. 31.

On September 12, 2014, the written Verification of Employment, DHS 38, was not received, but the Respondent continued to receive FAP benefits for her and the Respondent's mother. Her 2 children were not on her FAP case because they were already on the children's father's FAP case. The Department alleges that Respondent received \$ [REDACTED] OI that is still due and owing to the Department. BAM 705, 725, and 500 series. BEM 212 series.

During the hearing, the Respondent stated that she did not live with her mother during the contested time period. Her mother had a duplex and she lived on one side and her mother lived on the other side. This Administrative Law Judge does not find this argument persuasive because of the letter written by the Respondent's mother stating that her daughter (the Respondent) and her 2 children lived with her. In addition, the property in question is not listed or assessed as a duplex by the County Assessor's office. Department Exhibit 1, pgs. 32-34.

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 the 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.



CF/nr

Carmen G. Fahie
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]