



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.: 17-003839
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 December 1, 2015, through November 30 2016, due to **Department's** error.
3. On October 13, 2015, the Respondent reported that she was receiving alimony on a Change Report. Department Exhibit 1, pgs. 33-34.
4. The Department failed to count the additional unearned income from the Respondent's alimony even though she reported the additional income timely, which resulted in her receiving an overissuance of FAP benefits.

5. 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 December 1, 2015, through November 30 2016, due to **Department's** error. On October 13, 2015, the Respondent reported that she was receiving alimony on a Change Report. Department Exhibit 1, pgs. 33-34.

The Department failed to count the additional unearned income from the Respondent's alimony even though she reported the additional income timely, which resulted in her receiving an overissuance of FAP benefits. The Department alleges that Respondent received \$ [REDACTED] OI that is still due and owing to the Department.

During the hearing, the Respondent testified that she did report the additional unearned income of alimony. The Department conceded that she did report, but the Department failed to budget the unearned income in determining her FAP eligibility. Since the amount exceeded the \$ [REDACTED] amount that would be waived due to Department error, the Respondent is required to pay back the \$ [REDACTED] overissuance. 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 FAP \$ [REDACTED] OI in accordance with Department policy.

Carmen G. Fahie

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]