



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: July 7, 2017
MAHS Docket No.: 17-007343
Agency No.: ██████████
Petitioner: DHHS
Respondent: ██████████

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, 42 CFR 431.230(b), 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 July 6, 2017, from Detroit, Michigan. The Department was represented by ██████ ██████, Recoupment Specialist; and ██████████, Eligibility Specialist. Respondent was present for the hearing and represented herself.

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 ██████████ the Department sent Respondent a Notice of Overissuance (OI notice) informing her of a FAP OI for the period of ██████████ due to client error. [Exhibit A, pp. 41-45.] The OI notice also indicated that the OI balance was \$██████ because her Social Security income was not budgeted in her case. [Exhibit A, pp. 41-45.]

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

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 (October 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 testified that Respondent applied for FAP benefits on [REDACTED], and was approved for benefits as a change reporter. [Exhibit A, p. 1.] The Department testified that Respondent began receiving Retirement, Survivors and Disability Insurance (RSDI) benefits on [REDACTED], and Supplemental Security Income (SSI) benefits effective [REDACTED]. [Exhibit A, p. 1.] The Department testified that Respondent's SSI income was automatically budgeted; however, the RSDI income was never budgeted, and there is no evidence Respondent reported receiving RSDI income in addition to the SSI until her [REDACTED] redetermination paperwork. [Exhibit A, p. 1.] As a result, the Department argued that Respondent failed to timely report her RSDI benefits to the Department, which caused an overissuance of FAP benefits.

The Department counts the gross RSDI benefits as unearned income. BEM 503 (July 2016), p. 27.

Clients must report changes in circumstance that potentially affect eligibility or benefit amount. BAM 105 (April 2016), p. 11. Changes must be reported within 10 days of receiving the first payment reflecting the change. BAM 105, p. 11.

Income reporting requirements are limited to the following:

* * *

- Unearned income:
 - Starting or stopping a source of unearned income.
 - Change in gross monthly income of more than \$50 since the last reported change.

BAM 105, pp. 11-12.

First, the Department presented Respondent's online application dated [REDACTED], in which she acknowledged her rights and responsibilities. [Exhibit A, pp. 4-14.] In the application, Respondent reported that she was waiting for a disability determination at the time. [Exhibit A, pp. 8 and 12.]

Second, the Department presented a State Online Query (SOLQ) that reports point-in-time information about Respondent's RSDI and SSI benefits. [Exhibit A, pp. 17-19.] There was a notation in the SOLQ by the Department in which collateral contact occurred with the Social Security Administration (SSA) on [REDACTED], which confirmed that Respondent received her first RSDI check on [REDACTED], and her first SSI check on [REDACTED]. [Exhibit A, p. 18.] The SOLQ also showed that Respondent's RSDI income was \$ [REDACTED] per month effective [REDACTED], but increased to \$ [REDACTED] effective [REDACTED]. [Exhibit A, p. 17.] The form also appeared to show that her SSI income was \$ [REDACTED] per month. Finally, it was discovered that Respondent was also a recipient of the \$ [REDACTED] quarterly check in State SSI Payments (SSP) (\$ [REDACTED] monthly average). See BEM 660 (January 2016), pp. 1-4, and RFT 248 (January 2016), pp. 1-3.

At the hearing, Respondent testified that she thought the Department would have automatically received notification that she had RSDI income. She testified that she believed she did inform the Department of all her income, including RSDI and SSI, when she submitted review documentation in [REDACTED]. She did not dispute the time periods she began receiving RSDI or SSI income. She testified that her gross income during the OI periods was \$ [REDACTED] per month, which was based on her \$ [REDACTED] in RSDI benefits, \$ [REDACTED] in SSI benefits, and \$ [REDACTED] monthly average in SSP payments. She did review the budgets and indicated it failed to reflect \$ [REDACTED] in her monthly rental obligation. She testified that her rent included all utilities, such as water, heat, electric, etc. She testified that she does have telephone expenses.

In response, the Department could not locate any form or review documentation she alleged she submitted in [REDACTED]. In regards to income, Respondent appeared to indicate her RSDI income was always \$ [REDACTED] but the SOLQ showed that her RSDI income was \$ [REDACTED] for the OI periods of [REDACTED], and then it increased to \$ [REDACTED] beginning [REDACTED]. In regards to the rental obligation, the

Department testified that verification of her rent was never received; therefore, the Department did not budget such expenses. See BEM 554 (June 2016), p. 14 (If the client fails to verify a reported change in shelter, remove the old expense until the new expense is verified).

Based on the foregoing information and evidence, the Department did establish a FAP benefit OI to Respondent. In the present case, the evidence established that Respondent failed to timely notify the Department of her RSDI income. See BAM 105, pp. 11-12. The Department established that Respondent first began receiving her RSDI benefits on [REDACTED], but indicated that she did not report her RSDI benefits until her [REDACTED] redetermination paperwork. [Exhibit A, pp. 1 and 18-19.] Respondent disagreed and testified that she first reported her RSDI benefits to the Department in [REDACTED]. If the undersigned believes Respondent first reported her RSDI income in [REDACTED] she still would have failed to report her income timely. Policy states that changes must be reported within 10 days of receiving the first payment reflecting the change. BAM 105, p. 11. Respondent first began receiving her RSDI income on [REDACTED], which meant she had until on or about [REDACTED], to report her income to the Department. Thus, in either situation, if she reported the income in [REDACTED], she failed to timely report to the Department her RSDI income in accordance with Department policy. As such, the evidence is sufficient to show that a client error is present in this case because Respondent did not report her earned income changes within 10 days of receiving the first payment reflecting the change. See BAM 105, pp. 11-12.

Applying the overissuance period standards, it is found that the Department applied the appropriate OI begin date of [REDACTED]. [Exhibit A, pp. 18 and 41, and BAM 715, pp. 4-5.]

Additionally, the Department presented OI budgets for [REDACTED]. [Exhibit A, pp. 20-40.] The budgets included Respondent's SSI and SSP benefits, including her RSDI benefits that were not previously budgeted. [Exhibit A, pp. 17-19.] A review of the OI budgets found them to be fair and accurate. It should be noted that Respondent argued that the budgets failed to reflect her \$ [REDACTED] in monthly rental obligation. Moreover, the undersigned asked Respondent several questions concerning her utilities and determined she would be only eligible for the \$ [REDACTED] telephone standard deduction. [Exhibit A, pp. 20-40; BEM 554, pp. 12-25; and RFT 255 (July 2016), p. 1.] Even if the budgets failed to include her rental obligation of \$ [REDACTED] and \$ [REDACTED] telephone standard deduction, she still would not be eligible for an excess shelter deduction. Respondent's total shelter obligation of \$ [REDACTED] (\$ [REDACTED] rent plus \$ [REDACTED] telephone standard) was less than half of the adjusted gross income \$ [REDACTED] or \$ [REDACTED] (depending on OI month), which meant she was not eligible for the excess shelter deduction per policy. See BEM 556 (July 2013), p. 5. As such, the Department is entitled to recoup/collect \$ [REDACTED] of FAP benefits for the time period of [REDACTED]. See BAM 715, pp. 7-8.

DECISION AND ORDER

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] for the period of [REDACTED].

Accordingly, the Department FAP decision is **AFFIRMED**.

The Department is **ORDERED** to initiate collection procedures for a FAP benefit OI of \$ [REDACTED] OI 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

Respondent

[REDACTED]
[REDACTED]
[REDACTED]

DHHS

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]