



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: April 4, 2017
MAHS Docket No.: 17-002226
Agency No.: [REDACTED]
Respondent: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Vicki Armstrong

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 March 23, 2017, from Lansing, Michigan.

The Department was represented by [REDACTED], Regulation Agent of the Office of Inspector General (OIG). [REDACTED] testified on behalf of the Department. The Department submitted 56 exhibits which were admitted into evidence.

Respondent did not appear. This matter having been initiated by the Department and due notice having been provided to Respondent, the hearing was held in Respondent's absence pursuant to 7 CFR 273.16(e), Mich Admin Code, R 400.3130(5), or Mich Admin Code, R 400.3178(5).

ISSUE

Did Respondent receive an over-issuance (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 was a recipient of FAP benefits from the Department at all times pertinent to this hearing.

2. On September 26, 2014, Respondent submitted a Change Report notifying the Department that she would begin working at [REDACTED] beginning September 17, 2014. [Dept. Exh. 10-12].
3. On November 3, 2014, a Verification of Employment was received by the Department from [REDACTED] indicating Petitioner was employed from September 22, 2014, through October 10, 2014. [Dept. Exh. 8-9].
4. The Department failed to count Respondent's earned income for the month of November 2014, when calculating Respondent's FAP benefit for that month. [Hearing Summary].
5. Respondent was erroneously issued \$ [REDACTED] in FAP benefits for the month of November 2014.
6. The Department alleges Respondent received a FAP OI during the month of November 2014, due to Department's error of failing to budget Respondent's earned income. [Hearing Summary].
7. The Department alleges that Respondent received a [REDACTED] OI for the month of November 2014, that is still due and owing to the Department. [Dept. Exh. 5].
8. On February 21, 2017, Respondent submitted a Hearing Request contesting the Department's negative action. [Dept. Exh. 1].
9. As of the date of the hearing, Respondent still owed the Department [REDACTED] for the OI. [Hearing Summary].

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.

Departmental policy, BAM 700, Benefit Overissuances, states that when a client group receives more benefits than entitled to receive, the Department must attempt to recoup the overissuance. BAM 700, p 1 (1/1/2016). Repayment of an overissuance is the responsibility of anyone who was an eligible, disqualified, or other adult in the program

group at the time the overissuance occurred. BAM 725, p 1 (10/1/2015). Bridges will collect from all adults who were a member of the case. *Id.*

An agency error is caused by incorrect action (including delayed or no action) by the Department staff or Department processes. BAM 700, p 4 (1/1/2016). Agency errors will be assigned to the client depending on the type of agency error that occurred. *Id.* at 6.

In this case, Respondent properly reported her income on the Change Report dated September 26, 2014. The Department representative testified that the Department failed to budget Respondent's reported income. Respondent did not appear to contest the Department's actions.

In accord with Department policy, the Department must attempt to recoup the OI, regardless of fault. BAM 700, p 6 (1/1/2016). Because the Department failed to properly budget Respondent's earned income, Respondent received an OI of [REDACTED] during the month of November 2014.

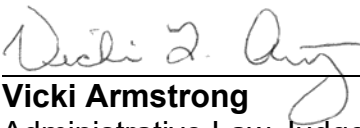
The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that the Department did establish a FAP benefit OI to Respondent totaling [REDACTED].

DECISION AND ORDER

Accordingly, the Department is AFFIRMED.

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

VLA/bb



Vicki Armstrong
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] via electronic mail

[REDACTED] via electronic mail

[REDACTED] via electronic mail [REDACTED]

Respondent

[REDACTED]