



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

SHELLY EDGERTON
DIRECTOR



Date Mailed: June 27, 2018
MAHS Docket No.: 18-005223
Agency No.: [REDACTED]
Respondent: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Vicki Armstrong

HEARING DECISION

Following Respondent's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 42 CFR 438.400 to 438.424; 45 CFR 99.1 to 99.33; and 45 CFR 205.10; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on June 21, 2018, from Lansing, Michigan. Respondent personally appeared and testified.

The Department of Health and Human Services (Department) was represented by Recoupment Specialist Michelle Silas. Ms. Silas testified on behalf of the Department. The Department submitted 87 exhibits which were admitted into evidence. The record was closed at the conclusion of the hearing.

ISSUE

Did the Department properly determine that Respondent was responsible for a Food Assistance Program (FAP) overissuance?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On September 13, 2012, Respondent applied for FAP benefits indicating she was employed at Beaumont Hospital. Respondent also listed her current address of [REDACTED]. [Dept. Exh. 12-51].

2. Respondent's address and employment were not entered into Bridges, resulting in an alleged \$7,344.00 FAP overissuance from October 1, 2011, through September 30, 2012. [Hearing Summary; Dept. Exh. 3-4].
3. On October 12, 2015, the Department mailed a Verification of Employment to William Beaumont Hospital, requesting verification of Respondent's employment. [Dept. Exh. 52-53].
4. On November 18, 2015, an Employee Wage History of Respondent showed she was employed at Beaumont Hospital from October 1, 2011, through September 30, 2012. [Dept. Exh. 55-56].
5. On November 19, 2015, the Department mailed notice to Respondent to an address she had previously resided at, but the house had since burned down. Respondent did not receive the notice of overissuance. [Testimony of Respondent and Recoupment Specialist].
6. On January 2, 2016, the Department mailed notice to Respondent of the overissuance to an address in [REDACTED]. Respondent never received the notice and was not living in Detroit. [Testimony of Respondent and Recoupment Specialist].
7. On February 17, 2017, notice of a Treasury Offset was mailed to Respondent, again to the Detroit address. Respondent never received the notice. [Testimony of Respondent and Recoupment Specialist].
8. On March 27, 2018, the Department ran a Benefit Summary Inquiry which showed Respondent received \$668.00 a month for April 2012 through September 2012; \$793.00 for the month of March 2012; a supplemental \$125.00 for the month of February 2012; \$668.00 a month for January 2012 through February 2012; a supplemental \$125.00 in January 2012, and \$668.00 a month from October 2011 through December 2011. [Dept. Exh. 61-62].
9. On March 27, 2018, a new claim for \$7,344.00 was posted. [Dept. Exh. 5].
10. On March 27, 2018, the Department mailed Respondent a Notice of Overissuance to her proper address of 15627 Chestnut Avenue, Eastpointe, MI 48021, informing Respondent that she had received a \$7,344.00 FAP overissuance during the period October 1, 2011, through September 30, 2012. [Dept. Exh. 6-10].
11. On April 3, 2018, the Department collected \$4,915.75 through the Federal Treasury Offset Program, reducing the alleged outstanding balance to \$2,428.25. [Hearing Summary].
12. On May 23, 2018, Respondent submitted a Hearing Request for Overissuance or Recoupment Action. [Dept. Exh. 3].

13. June 21, 2018, Respondent appeared in person for the hearing and contested the amount of \$4,915.75 taken from her through the Treasury Offset Program without Notice. [Testimony of Respondent].

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), Department of Health and Human Services Reference Tables Manual (RFT), and Department of Health and Human Services Emergency Relief Manual (ERM).

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-.3011.

In this case, there was a Treasury Offset on April 3, 2018, where the Department collected \$4,915.75 from Respondent through the Federal Treasury Offset Program for the alleged overissuance of \$7,344.00, with a balance due and owing in the amount of \$2,428.25. However, the Department admitted that Respondent never received proper notice of the alleged overissuance until March 27, 2018, when the overissuance was already with the Federal Treasury Offset Program. Moreover, with the March 27, 2018, Notice of Overissuance, the Department afforded Respondent hearing rights and requested that she pay the total alleged overissuance of \$7,344.00, with the knowledge that the alleged overissuance had already been turned over to the Federal Treasury Offset Program as early as February 2017. Based on the admissions by the Department, Respondent was not provided timely written Notice of Overissuance prior to the case be turned over to the Federal Treasury Offset Program.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to go forward and satisfy its burden of showing that it acted in accordance with the applicable law and Department policy in trying to recover a FAP overissuance that Petitioner allegedly received due to agency error.

DECISION AND ORDER


Accordingly, the Department's decision is **REVERSED**.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS

HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Redetermine what, if any, amount is currently due and owing to the Department.
2. Mail Respondent a Notice of Case Action based on the redetermination.

VLA/hb



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) 763-0155; 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

Dora Allen
14061 Lappin
Detroit, MI 48205

Wayne County (District 76), DHHS

BSC4 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

DHHS Department Rep.

MDHHS-Recoupment
235 S Grand Ave
Suite 1011
Lansing, MI 48909

Petitioner

