

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES**

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2011-47839
Issue No.: 3020
Case No.: [REDACTED]
Hearing Date: November 30, 2011
County: Wayne (57)

ADMINISTRATIVE LAW JUDGE: Colleen M. Mamelka

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Claimant's request for a hearing. After due notice, a hearing was held in Detroit, Michigan on Wednesday, November 30, 2011. The Claimant appeared and testified. [REDACTED] was the sign language interpreter. Participating on behalf of Department of Human Services ("Department") was [REDACTED]

ISSUE

Whether the Department properly determined that the Claimant received an over-issuance of food assistance ("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. The Claimant is a FAP recipient.
2. Prior to the February 2011 redetermination, the Department erroneously input the Claimant's shelter obligation as \$6,500.00.
3. Prior to the February 2011 redetermination, the Claimant received \$200.00/month in FAP benefits.
4. Upon redetermination, the Department discovered the error and determined the monthly FAP amount should be (and should have been) \$126.00.

5. As a result, the Department issued a Notice of Over-Issuance to the Claimant on July 12, 2011.
6. On July 22, 2011, the Department received the Claimant's timely written request for hearing.

CONCLUSIONS OF LAW

The Food Assistance Program, formerly known as the Food Stamp program, is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations. The Department, formerly known as the Family Independence Agency, administers FAP pursuant to MCL 400.10, *et seq.*, and the Michigan Administrative Code, Rules 400.3001 through 400.3015. Department policies are found in the Bridges Administrative Manual ("BAM"), the Bridges Eligibility Manual ("BEM"), and the Bridges Reference Tables ("RFT").

An over-issuance occurs when a client group receives more benefits than they are entitled to receive. BAM 700. A claim is the resulting debt created by the over-issuance of benefits. BAM 700. Recoupment is an action to identify and recover a benefit OI. BAM 700. The Department must take reasonable steps to promptly correct any overpayment of public assistance benefits, whether due to department or client error. BAMs 700, 705, 715, and 725. An agency error OI is caused by incorrect actions by Department, DIT staff, or department processes. BAM 705.

In this case, the Department erroneously input the Claimant's rental obligation as \$6,500.00. In February, during redetermination, the Department discovered its error and recalculated the Claimant's monthly FAP benefits as \$126.00, as opposed to the \$200.00 that the Claimant previously received. Additionally, because the incorrect shelter obligation was used, the Department determined that the Claimant received a FAP over-issuance and began to recoup \$12.00/month resulting in the Claimant's FAP benefits being reduced to \$114.00/month.

During the hearing, it was discovered that the Claimant had listed that his son lived with him during the relevant period. The son was not considered in determining the Claimant's FAP eligibility. Furthermore, there was conflicting information regarding the amount the Claimant paid for his shelter during the period at issue. In light of the foregoing, the Claimant's FAP budget for the period of the alleged over-issuance needs to be recalculated.

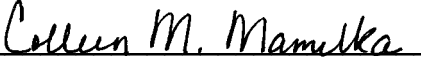
DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department failed to establish an over-issuance of FAP benefits.

Accordingly, the Department's FAP over-issuance calculation is REVERSED for the reasons stated on the record.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. The Department shall initiate recalculation of the Claimant's FAP budget for the over-issuance period, specifically addressing whether the son should have been included in the budget and include the correct monthly shelter obligation.
2. The Department shall notify the Claimant of the determination in accordance with Department policy.
3. The Department shall supplement for lost benefits (if any) that the Claimant was entitled to receive if otherwise eligible and qualified in accordance with Department policy.


Colleen M. Mamelka
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: December 2, 2011

Date Mailed: December 2, 2011

NOTICE: Michigan Administrative Hearing System (MAHS) may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. MAHS will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request. (60 days for FAP cases)

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
 - misapplication of manual policy or law in the hearing decision,

- typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
- the failure of the ALJ to address other relevant issues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail at

Michigan Administrative Hearings

Re consideration/Rehearing Request

P. O. Box 30639

Lansing, Michigan 48909-07322

CMM/cl

cc:

