

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2011-50650
Issue No.: 3002
Case No.: [REDACTED]
Hearing Date: September 28, 2011
County: Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Susan C. Burke

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 telephone hearing was held on September 28, 2011, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and [REDACTED] Claimant's son. Participants on behalf of Department of Human Services (Department) included [REDACTED]

ISSUE

Did the Department properly decrease Claimant's 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. Claimant received FAP benefits in the amount of \$301.00 for a household size of two.
2. The Department decreased Claimant's FAP benefits to \$148.00 for a household size one, effective September 1, 2011.
3. Claimant signed an Intentional Program Violation Repayment Agreement (DHS-325), dated June 24, 2010, agreeing to repay for an overpayment from June 1, 2007 to September 30, 2007 in the amount of \$591.00. (Claimant's Exhibit 1.)

4. Claimant signed a Disqualification Consent Agreement (DHS 830) on June 24, 2010. (Claimant's Exhibit 2.)
5. The Department determined that Claimant signed a Repayment Agreement for an overpayment of \$591.00 from May 1, 2006 to September 30, 2006.
6. On August 22, 2011, Claimant filed a hearing request, protesting the amount of benefits.

CONCLUSIONS OF LAW

Department policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT).

The Food Assistance Program (FAP) [formerly known as the Food Stamp (FS) 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 (CFR). The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, *et seq.*, and 1999 AC, Rule 400.3001 through Rule 400.3015.

Additionally, BAM 720, p. 12 states that a recipient is to be disqualified if the recipient has signed a DHS 830. However, BAM 105 directs the Department to protect Claimant's rights.

In the present case, the Department appears to have acted to disqualify Claimant as a FAP recipient. However, the Bridges Claim Detail (Exhibit 2) and the Recorded Repayment Agreement (Exhibit 3) presented by the Department indicate an overpayment period from May 1, 2006 to September 30, 2006. These documents reflect an overpayment period that is not consistent with the signed Intentional Program Violation Repayment Agreement of June 24, 2010 (Claimant's Exhibit 1,) which document shows an overpayment period from June 1, 2007 to September 30, 2007. I am not convinced that the Department protected Claimant's rights in thoroughly investigating the proper overpayment period.

Based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, the Administrative Law Judge concludes that the Department

properly calculated Claimant's FAP benefits improperly calculated Claimant's FAP benefits.

DECISION AND ORDER

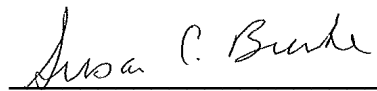
The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department

did act properly. did not act properly.

Accordingly, the Department's FAP calculation decision is AFFIRMED REVERSED for the reasons stated within this record.

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

1. Initiate redetermination of the proper overpayment period pursuant to a Repayment Agreement of record.
2. Initiate redetermination of a disqualification period of Claimant.
3. Initiate redetermination of Claimant's FAP benefits according to Department policy, effective September 1, 2011 and ongoing.
4. Initiate issuance of FAP supplements to Claimant for any missed or increased payments from September 1, 2011, if Claimant is determined to be eligible for FAP.



Susan C. Burke
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 10/5/11

Date Mailed: 10/5/11

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.

2011-10650/SCB

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

SCB/sm

cc:

