

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201316222
Issue No: 4060
Case No: [REDACTED]
Hearing Date: March 6, 2013
Grand Traverse County DHS

ADMINISTRATIVE LAW JUDGE: Suzanne D. Sonneborn

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon Claimant's request for a hearing received by the Department of Human Services (department) on November 26, 2012. After due notice, a telephone hearing was held on March 6, 2013. Claimant appeared and provided testimony. The department was represented by [REDACTED], a recoupment specialist with the department's Grand Traverse County office.

ISSUE

Whether Claimant received an over issuance (OI) of Food Assistance Program (FAP) benefits that the department is entitled to recoup?

FINDINGS OF FACT

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

1. Claimant was a recipient of FAP benefits at all times relevant to this matter. (Department Exhibit D)
2. On or about March 2012, the department obtained verification of Claimant's employment with the Michigan Department of Natural Resources.
3. Due to agency error, the department failed to budget Claimant's earned income in determining Claimant's eligibility for FAP benefits for the benefit period of March 1, 2012 through August 31, 2012. (Department Exhibits D through N)
4. Claimant received an over issuance of FAP benefits in the amount of \$ [REDACTED] for the period of March 1, 2012 through August 31, 2012. (Department Exhibit E)

5. On November 16, 2012, the department mailed Claimant a written notice (DHS-4358-A) that she received an over issuance of FAP benefits in the amount of \$ [REDACTED] for the period of March 1, 2012 through August 31, 2012.as a result of agency error.
6. On November 26, 2012, Claimant submitted a hearing request, protesting the department's determination that she must repay the FAP over-issuance.

CONCLUSIONS OF LAW

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. BAM 600. The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied. MAC R 400.903(1).

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 of Human Services (DHS or department) administers the FAP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3001-3015. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

All earned and unearned income available to the client is countable. Earned income means income received from another person or organization or from self-employment for duties that were performed for compensation or profit. Unearned income means all income that is not earned, including but not limited to funds received from the Family Independence Program (FIP), State Disability Assistance (SDA), Child Development and Care (CDC), Medicaid (MA), Social Security Benefits (RSDI/SSI), Veterans Administration (VA), Unemployment Compensation Benefits (UCB), Adult Medical Program (AMA), alimony, and child support payments. The amount counted may be more than the client actually receives because the gross amount is used prior to any deductions. BEM 500.

The Department determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. Actual income is income that was already received. Prospective income is income not yet received but expected. Prospective budgeting is the best estimate of the client's future income. BEM 505.

All income is converted to a standard monthly amount. If the client is paid weekly, the Department multiplies the average weekly amount by 4.3. If the client is paid every

other week, the Department multiplies the average bi-weekly amount by 2.15. BEM 505.

An over issuance is the amount of benefits issued to the client group in excess of what they were eligible to receive. BAM 705. The amount of the over issuance is the amount of benefits the group actually received minus the amount the group was eligible to receive. BAM 720. When a client group receives more benefits than they are entitled to receive, the Department must attempt to recoup the over issuance. BAM 700.

Department errors are caused by incorrect actions by the Department. BAM 705. Department error over issuances are not pursued if the estimated over issuance is less than \$125 per program. BAM 705. The agency error threshold was raised to \$250 from \$125 with an effective date of December 1, 2012. BAM 705.

In this case, Claimant was a recipient of FAP benefits in 2011 and, due to department error, she received an over issuance of FAP benefits in the amount of \$ [REDACTED] for the period of March 1, 2012 through August 31, 2012. Specifically, Claimant's caseworker failed to properly close Claimant's FAP benefits case after being made aware of Claimant's employment and income and not having received back Claimant's verification of income information.

The Administrative Law Judge finds that, based on the competent, material, and substantial evidence presented during the March 6, 2013 hearing, the department properly determined that Claimant received an over issuance of FAP benefits in the amount of \$ [REDACTED] which the department is required to recoup.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department established that Claimant received an over issuance of FAP benefits in the amount of \$ [REDACTED] which the department is required to recoup. Accordingly, the department's recoupment of Claimant's over-issuance of FAP benefits in the amount of \$ [REDACTED] is **UPHELD**.

It is **SO ORDERED**.

/s/

Suzanne D. Sonneborn
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: March 13, 2013

Date Mailed: March 13, 2013

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 60 days of the filing of the original request.

The Claimant may appeal this 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 errors, or other obvious errors in the hearing decision that affect the substantial rights of Claimant;
 - The failure of the ALJ to address other relevant issues in the hearing decision.

A request for a rehearing or reconsideration must be submitted through the local DHS office or directly to MAHS by mail at:

Michigan Administrative Hearings System
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, MI 48909-07322

SDS/cr

cc:

