

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

IN THE MATTER OF:

[REDACTED]

[REDACTED]

3052

[REDACTED]

February 27, 2013

Eaton

ADMINISTRATIVE LAW JUDGE: Gary F. Heisler

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 February 27, 2013. Claimant appeared and testified. The Department was represented by Recoupment Specialist [REDACTED] and ES [REDACTED].

ISSUE

Did an agency error by the Department of Human Services result in a [REDACTED] over-issuance of Food Assistance Program (FAP) benefits to Claimant between August 1, 2011 and January 31, 2012 which the Department is entitled to recoup?

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 was an ongoing recipient of Food Assistance Program (FAP) benefits.
2. On January 16, 2013, the Department sent Claimant a Notice of Over-Issuance (DHS-4358).
3. On January 25, 2013, Claimant submitted a request for hearing.

CONCLUSIONS OF LAW

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

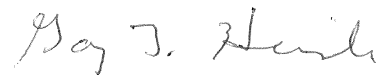
The Food Assistance Program (FAP) [formerly known as the Food Stamp (FS) program] is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, *et seq.*, and 1997 AACR R 400.3001-3015.

The Department alleges that earned income, which Claimant had properly reported, was not included in Claimant's Food Assistance Program (FAP) financial eligibility budget due to an agency error. During this hearing the over-issuance budgets were reviewed with RS Lynaugh. The monetary information provided by the employer was not in the form of specific pay stub data. It could not be determined how the employer's debit and credit data had been converted to the earned income in the over-issuance budgets. The Department agreed that the over-issuance calculations needed to be re-evaluated. A more specific analysis of the evidence, applicable Department policies, and reasoning for the decision are contained in the recorded record. During the hearing Claimant and the Department were informed of the decision and the reasoning behind the decision.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact, Conclusions of Law, and for the reasons stated on the record, finds that the evidence in this record is insufficient to support the Department's over-issuance determination. The proposed Department action cannot be upheld.

It is ORDERED that the actions of the Department of Human Services, in this matter, are REVERSED. Nothing in this decision prevents the Department from reviewing this agency error and issuing a new Notice of Over-Issuance.



Gary F. Heisler
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: March 4, 2013

Date Mailed: March 4, 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 90 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing 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
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

GFH/db

cc:

