

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

**IN THE MATTER OF:**



Reg. No.: 201345260  
Issue No.: 3052  
Case No.: [REDACTED]  
Hearing Date: June 6, 2013  
County: Lapeer

**ADMINISTRATIVE LAW JUDGE:** C. Adam Purnell

**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 June 6, 2013 from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] (Claimant's daughter/Interpreter) and [REDACTED] (Claimant). Participants on behalf of Department of Human Services (Department) included [REDACTED] [REDACTED] (Eligibility Specialist) and [REDACTED] [REDACTED] (Recoupment Specialist).

**ISSUE**

Did Claimant receive an overissuance of Food Assistance Program (FAP) benefits that 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 received FAP benefits during the period of July 1, 2012 through November 30, 2012.
2. The Department determined that Claimant received a FAP overissuance in the amount of \$1,798.00 during the period of July 1, 2012 through November 30, 2012.
3. The overissuance was due to Department or agency error.
4. On April 19, 2013, the Department sent notice of the overissuance and a repayment agreement to Claimant.

5. On May 7, 2013, Claimant filed a hearing request, protesting the Department's recoupment action.

### **CONCLUSIONS OF LAW**

Department policies are found 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 400.3001-3015.

Departmental policy, states that when the client group receives more benefits than the group is entitled to receive, the Department must attempt to recoup the overissuance (OI). BAM 700. Repayment of an OI is the responsibility of anyone who was an eligible, disqualified, or other adult in the program group at the time the OI occurred. BAM 700. Recoupment is a Department action to identify and recover a benefit OI. BAM 700.

Here, Claimant does not dispute the Department's calculations, but she insists that she did not violate any policies or act inappropriately. Claimant essentially does not dispute the Department's determination of an OI or that it was due to an agency error.

Testimony and other evidence must be weighed and considered according to its reasonableness. *Gardiner v Courtright*, 165 Mich 54, 62; 130 NW 322 (1911); *Dep't of Community Health v Risch*, 274 Mich App 365, 372; 733 NW2d 403 (2007). The weight and credibility of this evidence is generally for the fact-finder to determine. *Dep't of Community Health*, 274 Mich App at 372; *People v Terry*, 224 Mich App 447, 452; 569 NW2d 641 (1997). Moreover, it is for the fact-finder to gauge the demeanor and veracity of the witnesses who appear before him, as best he is able. See, e.g., *Caldwell v Fox*, 394 Mich 401, 407; 231 NW2d 46 (1975); *Zeeland Farm Services, Inc v JBL Enterprises, Inc*, 219 Mich App 190, 195; 555 NW2d 733 (1996).

This Administrative Law Judge has carefully considered and weighed the testimony and other evidence in the record. Here, Claimant timely and properly reported her household income, but the Department failed to properly budget earned income which resulted in an OI of FAP benefits. Based on the competent, material, and substantial evidence presented during the hearing, this Administrative Law Judge finds that Claimant did receive an overissuance of FAP benefits in the amount of \$1,798.00 that the Department is entitled to recoup.

### **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.

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

IT IS SO ORDERED.

/s/  
C. Adam Purnell  
Administrative Law Judge  
For Maura Corrigan, Director  
Department of Human Services

Date Signed: June 7, 2013

Date Mailed: June 10, 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

CAP/aca

cc:

