

STATE OF MICHIGAN  
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES  
ADMINISTRATIVE HEARINGS FOR THE  
DEPARTMENT OF HUMAN SERVICES

**IN THE MATTER OF:**



Reg. No.: 201346694  
Issue No.: 3052  
Case No.: [REDACTED]  
Hearing Date: June 13, 2013  
County: Macomb 36

**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 upon claimant's request for a hearing. After due notice, a hearing was held on June 13, 2013. Claimant appeared and testified.

**ISSUE**

Did the Department of Human Services over-issue Claimant \$1,800 of Food Assistance Program (FAP) benefits which the Department is entitled to recuperate?

**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 an ongoing recipient of Food Assistance Program (FAP) benefits.
- (2) On April 24, 2013, Claimant was sent a Notice of Over-issuance (DHS-4358) packet.
- (3) On May 1, 2013, Claimant submitted a request for hearing.

**CONCLUSIONS OF LAW**

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 Program Reference Manual (PRM).

In this case the over-issuance budgets submitted by the Department were deficient because the excess shelter amounts had not been modified to reflect the difference alleged by the Department. The Department has not met its burden of providing evidence to show this proposed action is correct in accordance with law and policy.

**DECISION AND ORDER**

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides this Departmental action cannot be upheld because the Department has not met its initial evidentiary burden.

It is ORDERED that the actions of the Department of Human Services, in this matter, are REVERSED.

Nothing in this order prevents the Department from re-evaluating the over-issuance allegation and pursuing recoupment again.

/s/  
\_\_\_\_\_  
Gary F. Heisler  
Administrative Law Judge  
for Maura D. Corrigan, Director  
Department of Human Services

Date Signed: 6/17/13

Date Mailed: 6/17/13

**NOTICE:** Administrative Hearings 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. Administrative Hearings 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

GFH/tb

cc:

