

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201336506
Issue No.: 3006
Case No.: [REDACTED]
Hearing Date: December 10, 2013
County: Genesee (02)

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

HEARING DECISION

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on December 10, 2013 from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] (Claimant). Participants on behalf of the Department of Human Services (Department) included [REDACTED] (Recoupment Specialist).

ISSUE

Did Claimant receive an overissuance of program 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 benefits for the Food Assistance Program (FAP).
2. The Department determined that Claimant received a FAP overissuance in the amount of [REDACTED] during the period of June 1, 2012 through August 31, 2012.
3. The overissuance was due to client error.
4. On March 7, 2013, the Department sent notice of the overissuance and a repayment agreement to Claimant.

5. On March 15, 2013, Claimant filed a hearing request, protesting the Department's recoupment action.

CONCLUSIONS OF LAW

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

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food Stamp Act of 1977, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 271.1 to 285.5. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10 and Mich Admin Code, R 400.3001 to .3015.

For all programs, when a client group receives more benefits than it is entitled to receive; DHS must attempt to recoup the overissuance (OI). BAM 700, p. 1 (12-1-2011). An OI is the amount of benefits issued to the client group in excess of what it was eligible to receive. BAM 700, p. 1. "Recoupment" is a DHS action to identify and recover a benefit OI. BAM 700, p. 1.

Bridges determines the first month of the overissuance as two months after the actual monthly income exceeded the simplified reporting (SR) limit. This accounts for the 10 days to report by the client, the 10 days for the specialist to act on the change and the 12-day negative action period; see BAM 200.

If the income falls below the income limit any time during these two months **and** does not exceed the income limit again during the certification period, recoupment is not necessary. If it does exceed the income limit **again** during the certification period and the client does not report, all months that exceeded the limit after the first two months would be recouped. BAM 700, p.5. (12-1-2011). For FAP, no client overissuance will be established if the OI amount is less than \$125. BAM 700, p.5. (12-1-2011)

Here, the Department argues Claimant failed to report that her income exceeded the simplified reporting limit in April, May and June, 2012. This resulted in an overissuance (OI) of FAP benefits in the amount of [REDACTED] for each month in June, July and August, 2012. The total alleged OI is [REDACTED] due to client error. Claimant, on the other hand, contends that she reported changes in her income to her caseworker every 6 months as required.

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. This ALJ finds the testimony of the Recoupment Specialist to be more credible than that of Claimant when viewed in light of the record evidence. Here, Claimant was required to report each month when her income exceeded the simplified reporting amount of [REDACTED]. Claimant's reporting of her income every 6 months does not meet the SR policy requirements. The Department correctly determined that this was a client error which resulted in an OI of FAP benefits from June, 2012 through August, 2012.

Based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, the Administrative Law Judge concludes that Claimant did receive an overissuance for FAP benefits in the amount of [REDACTED] due to a client error from June 1, 2012 through August 1, 2012 that the Department is entitled to recoup.

DECISION AND ORDER

Accordingly, the Department's action seeking recoupment is **AFFIRMED**.

IT IS SO ORDERED.

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

Date Signed: December 11, 2013

Date Mailed: December 12, 2013

NOTICE OF APPEAL: 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 or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

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).

A Request for Rehearing or Reconsideration may be granted when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;

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- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The Department, AHR or the claimant must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date the hearing decision is mailed.

The written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

If submitted by mail, the written request must be addressed as follows:

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

CAP/aca

cc:

