

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

IN THE MATTER OF:

██████████
██████████████████
██████████████████

Reg. No.: 201341171
Issue No.: 3020
Case No.: ██████████
Hearing Date: May 15, 2013
County: Wayne (31)

ADMINISTRATIVE LAW JUDGE: Jan Leventer

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 hearing was held on May 15, 2013, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████, 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. During the period of November 1, 2010 through October 31, 2011, Claimant received benefits for:

- | | |
|--|---|
| <input type="checkbox"/> Family Independence Program (FIP). | <input type="checkbox"/> State Disability Assistance (SDA). |
| <input checked="" type="checkbox"/> Food Assistance Program (FAP). | <input type="checkbox"/> Child Development and Care (CDC). |
| <input type="checkbox"/> Medical Assistance (MA). | |

2. The Department determined that Claimant received a
 FIP FAP MA SDA CDC overissuance in the amount of \$1,927 during the period of November 1, 2010, through October 31, 2011.

3. The overissuance was due to Department error. client error.

4. On March 26, 2013, the Department sent notice of the overissuance and a repayment agreement to Claimant.
5. On April 1, 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 1999 AC, R 400.3001 through Rule 400.3015.

Additionally, Bridges Administrative Manual 700, "Overissuances," states that when a customer receives more assistance than they are entitled to, the Department must attempt to recoup the funds. Department of Human Services Bridges Administrative Manual (BAM) 700 (January 1, 2011). Department errors in a customer's favor are not excluded and recoupment must be attempted regardless of the source of the error. *Id.*; Department of Human Services Bridges Administrative Manual (BAM) 705 (2011).

The beginning date of the recoupment period is determined by the first month that the benefit amount exceeds the amount allowed by policy, or, twelve months before the date the OI was discovered; whichever is later. BAM 705, p. 4. In this case the Department used the twelve-month period from the date of its discovery of the error. That date is October 3, 2011. Dept. Exh. 1, pp. 24-26, 34-36.

Having considered all of the evidence in this case taken as a whole, it is found and determined that the Department has proceeded correctly in its recoupment. It is found and determined that an error occurred, and that the error period is twelve months before the error was discovered. Regarding the amount of the overissuance, the Department presented income and benefit information sufficient to calculate Claimant's correct benefit amount for each of the twelve months.

While Claimant does not dispute that the Department erred in her case, she raised two arguments in protest against the recoupment process. First, Claimant stated that she should not be made responsible to pay for a mistake when it was not her own fault. As for this assertion, BAM 700 and BAM 705 make it clear that the Department must seek recoupment regardless of the source of the error. It is found that Claimant's first argument does not contemplate the full scope of the law, and her argument is rejected.

Second, Claimant asserts that a previous Michigan Administrative Hearing System (MAHS) decision in her case ruled that she was receiving the correct FAP benefits, and that this decision means that her FAP benefit is correct since then, and it cannot be adjusted. The case referred to by Claimant is Register No. 2012-2783, November 9, 2011. The decision was retrieved and made an exhibit in this case by the Administrative Law Judge. Court. Exh. 1.

Having reviewed this decision, it appears that this decision related to another matter, i.e., federal reductions in FAP expense deductions allowable for shelter and utilities. The decision did not refer to the issue in the present case, overissuance and recoupment. This being the fact of the matter, it is found and determined that Claimant's argument that her FAP benefit cannot be adjusted based on a prior decision, is misplaced.

In conclusion, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, the Administrative Law Judge concludes that Claimant

did receive an overissuance for FIP FAP MA SDA CDC benefits in the amount of \$1,927 which 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. did not act properly.

Accordingly, the Department's decision is AFFIRMED REVERSED for the reasons stated on the record.



Jan Leventer

Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: May 20, 2013

Date Mailed: May 22, 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. (60 days for FAP cases)

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 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 affect the substantial rights of the claimant:
 - 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

JL/tm

cc: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]