

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

IN THE MATTER OF:

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Reg. No.: 2013-50839
Issue No.: 3002;3052
Case No.: ██████████
Hearing Date: June 27, 2013
County: Wayne (17)

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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 conducted on June 27, 2013 from Detroit, Michigan. Claimant and her ██████████, appeared and testified. Participating on behalf of the Department of Human Services (Department) was ██████████ Recoupment Specialist.

ISSUE

Did the Department properly calculate and recoup an overissuance in Food Assistance Program (FAP) benefits issued to Claimant?

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 FAP benefits.
2. On April 26, 2013, Claimant signed an Intentional Program Violation (IPV) Repayment Agreement and Disqualification Consent Agreement. (Exhibit 1).
3. On May 9, 2013, the Department sent Claimant an Intentional Program Violation Client Notice informing her that she would be disqualified from receiving FAP benefits for the period of June 1, 2013 through May 31, 2014 due to the IPV that

resulted in an overissuance in the amount of \$2,460.00 that occurred from November 2010 through August 2011. (Exhibit 2).

4. This Notice also informed Claimant that effective June 1, 2013, her monthly FAP benefits would be reduced to \$25.00 due to her disqualification and administrative recoupment. (Exhibit 2).
5. On May 29, 2013, Claimant filed a hearing request disputing the Department's actions.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services 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 Mich Admin Code Rule 400.3001 through Rule 400.3015.

In this case, the Department testified that during the time Claimant was receiving FAP benefits, Claimant failed to report to the Department her marriage, the presence of her husband in the home, his employment and earnings. (Exhibit 1). On April 26, 2013, Claimant signed an IPV Repayment Agreement and Disqualification Consent Agreement. (Exhibit 1). On May 9, 2013, the Department sent Claimant an Intentional Program Violation Client Notice informing her that she would be disqualified from receiving FAP benefits for the period of June 1, 2013 through May 31, 2014 due to an overissuance in the amount of \$2,460.00 that occurred from November 2010 through August 2011, and that effective June 1, 2013, her monthly FAP benefits would be reduced to \$25.00 due to her disqualification and administrative recoupment. (Exhibit 2). Claimant confirmed that she signed the IPV Repayment agreement and the Disqualification Consent Agreement. Claimant however, disputed the amount of her FAP benefits after disqualification and the amount of the monthly FAP benefit recoupment.

At the hearing, the FAP EDG Net Income Results for the benefit period of June 1, 2013, was reviewed. (Exhibit 6). The Department concluded that Claimant's husband had earned income of \$1,489.00. The Department testified that in calculating Claimant's monthly earned income, it considered the pay information in Claimant's file which included pay checks from June 2011 in the amount of \$692.80 each. (Exhibit 9). The Department prospectively budgeted Claimant's husband's earned income by multiplying the average of paystubs by the 2.15 standard multiplier, as Claimant gets paid biweekly. BEM 505 (October 2010), p.1, pp.6-7. The Department applied the 20% earned income

deduction to Claimant's total earned income. BEM 550 (February 2012), p. 1. Claimant's husband testified that since 2011, his income has changed but he had not yet reported the new income information to the Department.

The FAP budget shows that the Department properly applied the \$148.00 standard deduction applicable to Claimant's group size and that the \$575.00 standard heat and utility deduction available to all FAP recipients was properly applied. (Exhibit 1, Exhibit 2); RFT 255 (October 2012), p 1; BEM 554 (October 2012), pp. 11-12. Claimant confirmed that at the time this budget was calculated, housing costs were not provided to the Department. Claimant was a disqualified member of her FAP group due to her IPV for the benefit period of June 1, 2013 ongoing. Therefore, the Department acted in accordance with Department policy when it concluded that Claimant had monthly net income of \$989.00 and was eligible for monthly FAP benefits of \$70.00 effective June 1, 2013 for a group size of two before any administrative recoupment of over issued benefits. BEM 556 (October 2011); RFT 260 (December 2012), p 9.

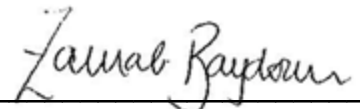
Additionally, when a client group receives more benefits than entitled to receive, the Department must attempt to recoup the overissuance (OI). Administrative Recoupment (AR) is an automated Bridges process that reduces current Department benefits in order to obtain repayment on the OI for that program. BAM 725 (August 2012), p.1. FAP benefits are reduced for recoupment by a percentage of the monthly FAP entitlement. The entitlement amount is the amount of FAP benefits a group would receive if any intentional program violation-disqualified members were included in the eligible group. BAM 725, p. 6. The Department is to use the standard administrative recoupment percentage unless a court has ordered a different administrative recoupment percentage or a specific dollar amount. For IPV's, the standard administrative recoupment percentage for FAP is 20 percent or \$20, whichever is greater. BAM 725, p. 6.

As discussed above, the Department properly calculated Claimant's net income and monthly FAP benefits for June 1, 2013 ongoing. According to RFT 260, if Claimant were to be included as an eligible group member for FAP purposes, her group would be entitled to FAP benefits in the amount of \$229.00 per month. RFT 260, p.9. The Department testified and the FAP budget verifies that the monthly recoupment amount is \$45.00. Application of the standard 20 percent administrative recoupment percentage to \$229.00, the amount of FAP benefits that Claimant's group would receive if she was not a disqualified member, results in a recoupment amount of \$45.00. Therefore, the FAP benefit amount of \$70.00 less the recoupment amount of \$45.00 is \$25.00 in monthly FAP. Because the Department properly calculated the recoupment amount, the Department acted in accordance with Department policy when it determined that Claimant was entitled to monthly FAP benefits in the amount of \$25.00. BAM 725, p. 6.

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 in

accordance with Department policy when it calculated Claimant's FAP benefits and recoupment amount. Accordingly, the Department's decision is AFFIRMED.



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

Date Signed: July 3, 2013

Date Mailed: July 3, 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

ZB/cl

cc: [REDACTED]
[REDACTED]
[REDACTED]
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