

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

IN THE MATTER OF:



Reg. No.: 2012-69712
Issue No(s): 3006
Case No.: [REDACTED]
Hearing Date: January 7, 2014
County: Jackson

ADMINISTRATIVE LAW JUDGE: Darryl T. Johnson

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 January 7, 2014, from Lansing, Michigan. Participants on behalf of the Department of Human Services (Department) included Recoupment Specialist [REDACTED].

Respondent did not appear. This matter having been initiated by the Department and due notice having been provided to Respondent, the hearing was held in Respondent's absence in accordance with Department of Human Services Bridges Administrative Manual (BAM) 725, pp. 22 (July 1, 2013).

ISSUE

Did Respondent receive an overissuance (OI) of Food Assistance Program (FAP) benefits?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Respondent was a recipient of FAP benefits from the Department.
2. The Department alleges Respondent received a FAP OI during the period of April 2010 through June 2010 due to Department error.

3. The Department alleges that Respondent received the following OI that is still due and owing to the Department:

- a. FAP:
- i. April 2010 \$ [REDACTED]
 - ii. May 2010 \$ [REDACTED]
 - iii. June 2010 \$ [REDACTED]
 - iv. Total 2010 \$ [REDACTED]

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), Department of Human Services Reference Tables Manual (RFT), and Department of Human Services Emergency Relief Manual (ERM).

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.

Policies and procedures for calculating, establishing and recouping an OI are contained in the following manual items:

- BAM 705, Agency Error Overissuances.
- BAM 710, MA and AMP Overissuances.
- BAM 715, Client Error Overissuances.
- BAM 720, Intentional Program Violation.
- BAM 725, Collection Actions.
- BEM 232, Direct Support Services.
- ERM 401, Payment.

FIP, SDA, CDC, MA and FAP, DHS requests hearings for debt establishment and collection purposes. The hearing decision determines the existence and collectability of a debt to the agency. BAM 725, p. 16.

The Recoupment Specialist (RS) is expected to represent DHS unless the local office designates someone else. The hearing proceeds without the client present if the DHS-828 is **not** returned by the post office as undeliverable. BAM 725, p. 22.

For all programs, when a client group receives more benefits than it is entitled to receive; DHS must attempt to recoup the over issuance (OI). BAM 700, p. 1 (7-1-13). An OI is the amount of benefits issued to the client group (or CDC provider) in excess of what it was eligible to receive. BAM 700, p. 1. For FAP benefits, an OI is also the

amount of benefits trafficked (traded or sold). "Recoupment" is a DHS action to identify and recover a benefit OI. BAM 700, p. 1.

There are three types of OIs: (1) agency error; (2) client error; and (3) CDC provider error. BAM 700, pp. 4-7.

A client error OI occurs when the client received more benefits than they were entitled to because the client gave incorrect or incomplete information to the department. BAM 700, p. 6. A client error also exists when the client's timely request for a hearing results in deletion of a DHS action, and any of the following occurred: (1) the hearing request is later withdrawn; (2) MAHS denies the hearing request; (3) the client or administrative hearing representative fails to appear for the hearing and MAHS gives DHS written instructions to proceed; or (4) the hearing decision upholds the department's actions. (See BAM 600.) BAM 700, p. 6.

An agency error OI is caused by incorrect action (including delayed or no action) by DHS staff or department processes. BAM 700, pp. 4-6. If the Department is unable to identify the type of OI, it is recorded as an agency error. BAM 700, p. 4.

For FIP, SDA, CDC and FAP, agency error OIs are not pursued if the estimated OI amount is less than \$250 per program. BAM 700, pp. 4-5. For FIP, SDA and FAP only, the agency error threshold was raised to \$250 from \$125 with an effective date of December 1, 2012. BAM 700, pp. 4-5. The agency error threshold was lowered to \$125 from \$500 with a retroactive effective date of August 1, 2008, until November 30, 2012. BAM 700, pp. 4-5.

For FIP, SDA, CDC and FAP, the amount of the OI is the benefit amount the group actually received minus the amount the group was eligible to receive. BAM 705, p. 6.

Liability for OI: For all programs, repayment of an overissuance is the responsibility of: (1) anyone who was an eligible, disqualified, or other adult in the program group at the time the overissuance occurred; and (2) a FAP-authorized representative if they had any part in creating the FAP overissuance. BAM 725, p. 1.

Collection of OI: The Department's computer system, known as "Bridges," will collect from all adults who were a member of the case. Administrative recoupment may be deducted on more than one case for a single overissuance. BAM 725, p. 1.

Active programs: All cases that contain an adult member from the original overissuance group and are active for the program in which the overissuance occurred are liable for the overissuance and subject to administrative recoupment. BAM 725, p. 3.

Inactive programs: Overissuances on inactive programs are recouped through cash repayment processes. BAM 725, p. 3.

ALJ Decision: If the department is **upheld** at the hearing, [the department worker] must change all affected overissuances on AR S by entering the hearing decision date for the establishment date. If the department is **reversed** at the hearing, [the department worker] must implement the hearing decision by deleting or reducing the overissuance balance for each affected overissuance. BAM 725, p. 22.

The Claimant did not participate in the hearing, leaving the Administrative Law Judge to rely upon the testimony and documents submitted by the Department. Pages 16, 18, and 20 of Exhibit 1 report the actual amount of FAP benefits issued to Claimant for the months of April, May, and June 2010. They also report the amount that should have been distributed and the amount of overissuance for each month. In summary, Claimant was overissued \$ [REDACTED] in FAP in 2010. The overissuances were due to Agency errors, but that does not relieve the Claimant from her obligation to repay them. The amounts were in excess of the threshold amount that the Agency can disregard under BAM 700.

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, if any, finds that the Department did establish a FAP benefit OI to Respondent totaling \$ [REDACTED]

DECISION AND ORDER

Accordingly, the Department is **AFFIRMED**.

The Department is ORDERED to initiate collection procedures for a \$1,053 OI in accordance with Department policy



Darryl T. Johnson
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: January 9, 2014

Date Mailed: January 9, 2014

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;
- 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

DTJ/las

cc:

