

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2012-78634
Issue No(s): [REDACTED]
Case No.: [REDACTED]
Hearing Date: January 28, 2014
County: Macomb #36

ADMINISTRATIVE LAW JUDGE: Dale Malewska

HEARING DECISION

Upon a hearing request by the Department of Human Services (Department) to establish an over-issuance (OI) of benefits to Respondent, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9, 400.43a, and 24.201, *et seq.*, and Mich Admin Code, R 400.941, and in accordance with 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 28, 2014, from Lansing, Michigan. Participants on behalf of the Department included [REDACTED], recoupment specialist.

Participants on behalf of Respondent included - [REDACTED] - [REDACTED] and [REDACTED]

ISSUE

Did Respondent receive an 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 August 2011, through July 2012, due to Department's error.
3. The Department alleges that Respondent received a \$ [REDACTED] OI that is still due and owing to the Department.

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.

The Respondent testified that she “cannot refund the money” because she “has a [REDACTED] in [REDACTED]. She said she had proof of her [REDACTED] and that she “could bring it in to the Department later.” But, when asked by the Department representative about her status between the dates of August 2011 and July 2012 she acknowledged “no status.” See Testimony and Exhibit #1, pp. 2 – 6. The Respondent inquired why the Department “denied it later” if it expired in March of 2010 and then testified that she has no means to refund the money.

The Department witness established that a debt existed in the amount of \$ [REDACTED] through “misapplication of policy” between the dates of August 31, 2011 and July 31, 2012. BAM 725 (7-1-13), p. 16 The Department’s error was discovered on September 7, 2012. See Exhibit #1, pp. 9, 10.

On review, the Respondent was once lawfully present in the United States under section 241 (b) (b) of the INA, however that employment authorization status expired in 2010. See Exhibit #1 at pp. 1, 7 see also BEM 225 (1-1-2014), p. 4. The Respondent had no dispute with the amount of the OI established at hearing – she only questioned the timing of its application. She requested that her case be closed.

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that the Department, by a preponderance of the evidence, did establish a FIP FAP SDA CDC benefit OI to Respondent totaling \$ [REDACTED]

DECISION AND ORDER

Accordingly, the Department is AFFIRMED.

The Department is ORDERED to initiate collection procedures for a \$ [REDACTED] OI in accordance with Department policy.



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

Date Signed: 2/12/14

Date Mailed: 2/12/14

NOTICE OF APPEAL: The Respondent 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 Respondent 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

2012-78634/DM

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

DM/tb

cc:

