

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201425129
Issue No.: 3002
Case No.: [REDACTED]
Hearing Date: February 27, 2014
County: Macomb County DHS #36

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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 February 27, 2014, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] and [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED].

ISSUE

Whether the Department of Human Services (Department) properly determined that the Claimant received an overissuance of Food Assistance Program (FAP) benefits due to unreported income?

FINDINGS OF FACT

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

1. The Claimant was a Food Assistance Program (FAP) recipient from June 1, 2013, through October 31, 2013.
2. A member of the Claimant's benefit group began new employment in April of 2013, and received the first paycheck on April 23, 2013.
3. This new income was used to determine the Claimant's Food Assistance Program (FAP) eligibility until October 21, 2013, when the Claimant submitted a completed Redetermination (DHS-1010).
4. On January 23, 2014, the Department notified the Claimant that she had received an overissuance of Food Assistance Program (FAP) benefits.
5. The Department received the Claimant's request for a hearing on February 4, 2014, protesting the recoupment of the Food Assistance Program (FAP) overissuance.

CONCLUSIONS OF LAW

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.

A client provider error overissuance occurs when the client received more benefits than they were entitled to because the client provider gave incorrect or incomplete information to the department. Department of Human Services Bridges Eligibility Manual (BEM) 715 (July 1, 2013), p 1.

If improper reporting or budgeting of income caused the overissuance, the Department will use actual income for the OI month for that income source. The Department will not convert the averaged monthly income reported on a wage match when determining a Food Assistance Program (FAP) overissuance. Department of Human Services Bridges Eligibility Manual (BEM) 715 (July 1, 2013), p 7.

In this case, the Claimant was a Food Assistance Program (FAP) recipient from June 1, 2013, through October 31, 2013. A member of the Claimant's benefit group began new employment in April of 2013, and received the first paycheck on April 23, 2013.

No evidence was presented during the hearing to establish that this new income was reported to the Department in a timely manner, and this income was not used to determine the Claimant's eligibility for Food Assistance Program (FAP) benefits until after she submitted a Redetermination (DHS-1010) on October 21, 2013.

The group member with employment beginning in October of 2013, had other employment, and no evidence was presented during the hearing that a report of this employment ending was submitted to the Department in a timely manner.

The Department obtained verification of the earned income starting on April 23, 2013, and applied this to its determination of the Claimant's eligibility for Food Assistance Program (FAP) as of June 1, 2013. If the Claimant had reported this new income in a timely manner, it would have affected eligibility for the Food Assistance Program (FAP) as of June 1, 2013.

Since other income attributed to the Claimant's benefit group had not been reported as ending, this income was not removed from the Claimant's benefits budgeting. With earned income from both jobs being considered, the Department determined that the Claimant was not eligible for any Food Assistance Program (FAP) benefits from June 1, 2013, through October 31, 2013, and that the Claimant received benefits during this period that she was not eligible for.

Department policy indicates that where improper reporting of income causes an overissuance of benefits, the Department will use actual income received during that period to determine the amount of the overissuance and not an average income determined by prospective budgeting. While the Department used actual income from the new employment, this Administrative Law Judge finds that the Department did not use actual income amounts for the previous employment. Insufficient evidence was

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available during the hearing to establish whether this income was continuing, or whether there was unreported ending income. Therefore, this Administrative Law Judge finds that the Department was not acting in accordance with policy when it found an overissuance of Food Assistance Program (FAP) benefits from June 1, 2013, through October 31, 2013.

The Department's recoupment of Food Assistance Program (FAP) benefits is reversed.

DECISION AND ORDER


The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it determined that the Claimant received an overissuance of Food Assistance Program (FAP) benefits from June 1, 2013, through October 31, 2013.

Accordingly, the Department's decision is **REVERSED**.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. The Department is ORDERED to delete the overissuance and cease any recoupment action.

Kevin


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

Date Signed: March 4, 2014

Date Mailed: March 4, 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

KS/hj

cc:

