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

IN THE MATTER OF:

[redacted]

Reg. No.: 2013-63428
Issue No(s).: 3006
Case No.: [redacted]
Hearing Date: March 11, 2014
County: Muskegon County DHS

ADMINISTRATIVE LAW JUDGE: Colleen Lack

HEARING DECISION

Upon a hearing request by the Department of Human Services (Department) to establish an overissuance (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 March 11, 2014, from Lansing, Michigan. Participants on behalf of the Department included [redacted] [redacted] Recoupment Specialist.

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 (7-1-2013), pp. 16-22.

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 December 1, 2009, through March 31, 2010, 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.

When a client group receives more benefits than it is entitled to receive, DHS must attempt to recoup the overissuance (OI). BAM 700, p 1 (7-1-2013). An overissuance (OI) is the amount of benefits issued to the client group or CDC provider in excess of what it was eligible to receive. For FAP benefits, an OI is also the amount of benefits trafficked (traded or sold). BAM 700, p 1 (7-1-2013).

An agency error OI is caused by incorrect action (including delayed or no action) by DHS staff or DIT staff or department processes. BAM 700, p 4 (7-1-2013). If unable to identify the type of OI, the Department records it as an agency error. BAM 700, p 4 (7-1-2013).

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 (7-1-2013).

A Claimant must report changes in circumstance that potentially affect eligibility or benefit amount. Changes must be reported within 10 days of receiving the first payment reflecting the change. BAM 105, p.7 (10-1-2009).

Client and Agency error OIs are not pursued if the estimated OI amount is less than $250 per program. BAM 700, p 9 (7-1-2013).

Here, the Department contends that Respondent received an OI of FAP benefits due to an agency error. Specifically, the Department asserts that the Department failed to combine Respondent's FAP case with L. D.'s FAP case when the child was born and Respondent married L.D. It was uncontested that L.D. timely reported the changes in the household, specifically the birth of the child, the marriage to Respondent who was the father of the newborn, and that Respondent was in the home. Pursuant to BEM 212 policy: spouses that live together must be in the same FAP group; also parents and their children under age 22 years old who live together must be in the same FAP group. The Department's failure to timely re-determine the FAP eligibility when L.D. timely reported the changes in the household resulted in an OI FAP benefits of $[redacted]

Pursuant to BAM 700, recoupment is pursued for OIs greater than $250, even when it was the Department's error that caused the OI.

This Administrative Law Judge has carefully considered and weighed the testimony and other evidence in the record. The evidence of record shows that the Department did err when it failed to timely re-determine the FAP eligibility after L.D. timely reported the birth of the child, the marriage to Respondent who was the father of the newborn, and that Respondent was in the home. The OI period is December 1, 2009 through March 31, 2010. When the correct FAP group composition was considered for the FAP budget, the difference between the benefit amounts received and the benefit amounts the Respondent's FAP group was entitled to receive was $[redacted]

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, 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 $[redacted] OI in accordance with Department policy.

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

Date Signed: March 24, 2014

Date Mailed: March 24, 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

CL/hj

cc: [redacted]