

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

IN THE MATTER OF:



Reg. No.: 2014-29593
Issue No(s): 3008
Case No.: [REDACTED]
Hearing Date: March 27, 2014
County: Wayne (17)

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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 three-way telephone hearing was held on March 27, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department or DHS) included [REDACTED], Recoupment Specialist. Also, [REDACTED] was present as Claimant's interpreter.

ISSUE

Did the Department properly calculate Claimant's Food Assistance Program (FAP) benefits in the amount of \$371 effective March 1, 2014?

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 is an ongoing recipient of FAP benefits. See Exhibit 2.
2. On January 17, 2014, Claimant signed an Intentional Program Violation Repayment (IPV) Agreement in which he agreed that he received an overpayment in the amount of \$579 for the FAP program between the time periods of July 1, 2013 to December 31, 2013. See Exhibit 1.
3. On January 17, 2014, Claimant signature on the IPV Agreement also acknowledged that the Department could administratively recoup this amount. See Exhibit 1.

4. On January 17, 2014, Claimant also signed a Request for Waiver of Disqualification Hearing, in which he did not admit that the facts are correct; however, chose to sign this waiver and understand that he would be disqualified for the program (one-year FAP disqualification) without a hearing. See Exhibit 1.
5. Effective February 2014, Claimant received FAP benefits in the amount of \$632 for a group size of four. See Exhibit 2.
6. On February 10, 2014, the Department sent Claimant an IPV Client Notice, which informed him that he was disqualified from receiving FAP benefits for 12 months (March 1, 2014 to February 28, 2015). See Exhibit 1.
7. On February 10, 2014, the IPV Client Notice also stated that an overissuance (OI) in the amount of \$579 occurred during the period of July 2013 to December 2013 and he must repay this amount. See Exhibit 1.
8. On February 10, 2014, the Department sent Claimant a Notice of Case Action notifying him that his FAP benefits decreased to \$371 effective March 1, 2014 to June 30, 2014 for a group size of three. See Exhibit 2.
9. On February 10, 2014, the Notice of Case Action also informed the Claimant that he was ineligible due to the IPV disqualification (result of group size of four to three) and that \$126 in benefits would be withheld to repay an OI. See Exhibit 2.
10. On February 14, 2014, Claimant filed a hearing request, protesting the Department's action. See Exhibit 1.

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.

IPV Repayment Agreement and Request for Waiver Disqualification Hearing

The local office must assist clients who ask for help in completing forms or gathering verifications. BAM 105 (January 2014), p. 13. Particular sensitivity must be shown to clients who are illiterate, disabled or not fluent in English. BAM 105, p. 13.

The department will provide appropriate interpreters to persons with limited English proficiency (LEP) to afford such persons an equal opportunity to participate in or benefit from DHS programs and services. BAM 105, p. 13. Furthermore policy description as to the use of interpreter is located in BAM 105. See BAM 105, pp. 13-15.

For FAP cases, the client/authorized representative (AR) is determined to have committed an IPV by a signed DHS-826, Request for Waiver of Disqualification Hearing or other recoupment and disqualification agreement forms. BAM 720 (July 2013), p. 2. The Department disqualifies an active or inactive recipient who has signed a DHS-826 or DHS-830. BAM 720, p. 15.

The Department must complete recoupment and disqualification actions within 10 days of receipt of the OIG final disposition or signed DHS-4350 and DHS-830. BAM 720, p. 15.

In this case, Claimant testified that he did not understand the documents he signed on January 17, 2014. Thus, Claimant infers that the documentation he signed is invalid due to his language barrier. Claimant testified that he did not understand his FAP benefits were impacted because he signed it. Moreover, Claimant testified that he did not seek assistance in regards to understanding what the documentation stated. Claimant testified that he did not know he could seek assistance before completing the form.

Based on the foregoing information and evidence, it is found that the signed IPV Repayment Agreement and Request for Waiver of Disqualification Hearing by the Claimant are valid agreements. There was no evidence presented to make both agreements invalid.

First, the local office must assist clients who ask for help in completing forms or gathering verifications. BAM 105, p. 13. Particular sensitivity must be shown to clients who are illiterate, disabled or not fluent in English. BAM 105, p. 13. In this case, Claimant did not seek any assistance to the Department in regards to the understanding of the forms. Moreover, both forms stated at the bottom in multiple languages that if the person does not understand this form, to call DHS. See Exhibit 1. Based on Claimant's testimony, he failed to contact the Department for any assistance as to the understanding of the forms. BAM 105, p. 13.

Second, the evidence presented that Claimant signed both agreements on his own free will and he did not provide any testimony that any threat, duress or coercion was used to make him sign the agreements. As such, both the IPV Repayment Agreement and Request for Waiver of Disqualification Hearing documents are valid agreements.

Therefore, it was first proper to disqualify the Claimant from his FAP benefits for one-year because he was determined to have committed an IPV by signing the Request for Waiver of Disqualification Hearing. See Exhibit 1 and BAM 720, pp. 2, 15, and 16. Second, it was proper for the Department to initiate recoupment of the OI amount of

\$579 because he signed the IPV Agreement. See Exhibit and BAM 720, p. 15. Third, the hearing will not address Claimant's alleged IPV as he signed the Request for Waiver of Disqualification Hearing, in which he did not admit that the facts are correct; however, chose to sign this waiver and understand that he would be disqualified for the program (one-year FAP disqualification) without a hearing. See Exhibit 1.

Recoupment Amount

In this case, Claimant is an ongoing recipient of FAP benefits. On January 17, 2014, Claimant signed an IPV Agreement in which he agreed that he received an overpayment in the amount of \$579 for the FAP program between the time periods of July 1, 2013 to December 31, 2013. See Exhibit 1. On January 17, 2014, Claimant signature on the IPV Agreement also acknowledged that the Department could administratively recoup this amount. See Exhibit 1. Specifically, this form states that if he is an active FAP recipient, his benefits will be reduced by 20% or his monthly benefits or \$20 per month (whichever is higher). See Exhibit 1.

Additionally, on January 17, 2014, Claimant also signed a Request for Waiver of Disqualification Hearing, in which he did not admit that the facts are correct; however, chose to sign this waiver and understand that he would be disqualified for the program (one-year FAP disqualification) without a hearing. See Exhibit 1.

Effective February 2014, Claimant received FAP benefits in the amount of \$632 for a group size of four. See Exhibit 2. On February 10, 2014, the Department sent Claimant an IPV Client Notice, which informed him that he was disqualified from receiving FAP benefits for 12 months (March 1, 2014 to February 28, 2015). See Exhibit 1.

On February 10, 2014, the IPV Client Notice also stated that an overissuance (OI) in the amount of \$579 occurred during the period of July 2013 to December 2013 and he must repay this amount. See Exhibit 1.

On February 10, 2014, the Department sent Claimant a Notice of Case Action notifying him that his FAP benefits decreased to \$371 effective March 1, 2014 to June 30, 2014 for a group size of three. See Exhibit 2. On February 10, 2014, the Notice of Case Action also informed the Claimant that he was ineligible due to the IPV disqualification (result of group size of four to three) and that \$126 in benefits would be withheld to repay an OI. See Exhibit 2. At the hearing, Claimant also testified that he was disputing the reduction in his benefits.

In the present case, Claimant's FAP group size reduced from four to three because of his IPV disqualification. As stated above, it was proper that the Department disqualified the Claimant from his FAP benefits for one-year in accordance with Department policy. See BAM 720, pp. 15-16. As such, Claimant's FAP benefits would decrease because of a reduction in the group size. Claimant was previously receiving the maximum allotment in FAP benefits for a group size of four, which was \$632. See Eligibility Summary, Exhibit 2 and RFT 260 (December 2013), p. 1. Because of the reduction, the maximum allotment allowed under a group size of three is \$497. See RFT 260, p. 1.

However, Claimant signed a repayment agreement. As stated before, the IPV Agreement and the IPV Client notice states that if he is an active FAP recipient, his benefits will be reduced by 20% or his monthly benefits or \$20 per month (whichever is higher). See Exhibit 1. Thus, the Department testified that even though he is disqualified, the Claimant remains a member of an active group as long as he lives with them. See BAM 720, p. 15. The Department testified that it would apply the 20% reduction based on a group size of four, which results in a monthly recoupment amount of \$126 (20% of \$632 FAP issuance amount for a group size of four). Thus, the Department testified it results in a monthly FAP allotment of \$371 (\$496 FAP issuance amount for a group size of three minus \$126 recoupment amount).

It should be noted that a budget was provided with the Notice of Case Action dated February 10, 2014. See Exhibit 2. Claimant did not dispute that his unearned income (cash assistance) was \$597 and that his monthly housing costs were \$700. See Exhibit 2. Moreover, the Department properly applied the \$151 standard deduction for a group size of three and the \$553 heat/utility standard. See RFT 255 (December 2013), p. 1; BEM 550 (February 2014), p. 1; and BEM 554 (February 2014), pp. 1, 14, and 15. Based on this information, Claimant was not disputing the actual figures and calculation in the budget. Rather, Claimant was disputing the reduction of his FAP benefits based on the IPV disqualification and recoupment amount.

For FAP cases, a disqualified recipient remains a member of an active group as long as he lives with them. BAM 720, p. 15. Other eligible group members may continue to receive benefits. BAM 720, p. 15.

A disqualified person is one who is ineligible for FAP because the person refuses or fails to cooperate in meeting an eligibility factor. BEM 212 (February 2014), p. 8. Individuals are disqualified for an IPV. See BEM 212, p. 8.

For FAP cases, active programs are subject to Administrative Recoupment (AR) for repayment of overissuances. BAM 725 (July 2013), p. 6. FAP benefits are reduced for recoupment by a percentage of the monthly FAP entitlement (the entitlement amount is the amount of FAP a group would receive if any intentional program violation-disqualified members were included in the eligible group). BAM 725, p. 7. The standard administrative recoupment percentage for FAP is 20 percent (or \$20, whichever is greater) for intentional program violation. BAM 725, p. 8.


Based on the foregoing information and evidence, the Department properly calculated Claimant's FAP benefits in the amount of \$371 effective March 1, 2014, in accordance with Department policy. First, as stated previously, the Claimant did not dispute the actual figures and calculations in the budget. Second, the Department properly applied the AR reduction amount to Claimant's group size of four allotment (\$632) because the entitlement amount is the amount of FAP a group would receive if any intentional program violation-disqualified members were included in the eligible group). See BAM 725, p. 7. Thus, this results in a monthly FAP allotment of \$371 (\$496 FAP issuance amount for a group size of three minus \$126 recoupment amount). The Department

properly calculated the recoupment amount and properly applied the repayment amount of \$126 in accordance with Department policy. See BAM 720, p. 15 and BAM 725, pp. 7-8.

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 acted in accordance with Department policy when (i) it found that the signed IPV Repayment Agreement and Request for Waiver of Disqualification Hearing by the Claimant are valid agreements; and (ii) it properly calculated Claimant's FAP allotment in the amount of \$371 effective March 1, 2014.

Accordingly, the Department's FAP decision is AFFIRMED.


Eric Feldman
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: April 1, 2014

Date Mailed: April 1, 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.

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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

EJF/tif

cc:

