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

IN THE MATTER OF:

[redacted]

Reg. No: 201345995
Issue No: 3006, 4006
Case No: [redacted]
Hearing Date: March 20, 2014
Kent County DHS

ADMINISTRATIVE LAW JUDGE: Suzanne D. Sonneborn

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 March 6, 2014 from Lansing, Michigan. Respondent appeared and provided testimony. The Department was represented by [redacted] a recoupment specialist with the Department's Kent County office

ISSUE

Whether Respondent received an over issuance (OI) of Food Assistance Program (FAP) benefits and State Disability Assistance (SDA) benefits that the department is entitled to recoup?

FINDINGS OF FACT

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

1. Respondent was a recipient of FAP and SDA benefits at all times relevant to this hearing. (Department Exhibit 1, pp. 24-60)

2. On October 29, 2011, the Department discovered that Respondent failed to timely and accurately report to the Department his incarceration from March 29, 2011 through November 11, 2011. (Department Exhibit 2, pp. 61-62; Department Exhibit 3, p. 63)

3. Due to Respondent's failure to timely and accurate report his incarceration, Respondent received an over issuance of FAP benefits in the amount of $200.00 for the period of June 1, 2011 through October 31, 2011 and an over issuance of SDA benefits in the amount of $[redacted] for the same time period, for a total over issuance in the amount of $[redacted] (Department Exhibit 4, pp. 2-10; Department Exhibit 5, p. 12; Department Exhibit 6, pp. 15-21)

4. On September 24, 2013, the Department mailed Respondent a written notice (DHS-4358-A) that, due to client error, he received an over issuance of FAP benefits in the amount of $200.00 for the period of June 1, 2011 through October 31, 2011 and an over issuance of SDA benefits in the amount of $[redacted] for the same time period, for a total over issuance in the amount of $[redacted] (Department Exhibit 7, pp. 2A-2E; pp. 3A-3E).

5. On October 3, 2013, Respondent submitted a hearing request, protesting the department's determination that he must repay the FAP and SDA over issuances.

CONCLUSIONS OF LAW

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. Department of Human Services Bridges Administrative Manual (BAM) 600 (2011), p. 1. The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in sections 400.901 to 400.951 of the Michigan Administrative Code (Mich Admin Code). An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied. Mich Admin Code R 400.903(1).

The Food Assistance Program (FAP) (formerly known as the Food Stamp (FS) program) is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). The Department of Human Services (DHS or department) administers the FAP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3001-3015. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

The State Disability Assistance (SDA) program was established by 2004 PA 344 and is a financial assistance program for individuals who are not eligible for the Family Independence Program (FIP) and are either disabled or the caretaker of a disabled person. The Department of Human Services (DHS or department) administers the SDA program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3151-400.3180.

Generally, a client is responsible for reporting any change in circumstances that may affect eligibility or benefit level, including one's incarceration, within ten days of the change. BAM 105, p 7.

An over issuance is the amount of benefits issued to the client group in excess of what they were eligible to receive. BAM 705. The amount of the over issuance is the amount of benefits the group actually received minus the amount the group was eligible to receive. BAM 720. When a client group receives more benefits than they are entitled to receive, the Department must attempt to recoup the over issuance. BAM 700.

Department errors are caused by incorrect actions by the Department. BAM 705. Department error over issuances are not pursued if the estimated over issuance is less than $250 per program. BAM 705. Client errors occur when the customer gave incorrect or incomplete information to the Department. Client errors are not established if the over issuance is less than $125 unless the client group is active for the over issuance program, or the over issuance is a result of a quality control audit finding. BAM 700.

In this case, at the March 20, 2014 hearing, the Department's representative, recoupment specialist, [redacted] provided testimony and documentary evidence establishing that Respondent failed to timely and accurately report his incarceration from March 29, 2011 through November 19, 2011. Ms. [redacted] further established that during Respondent's incarceration, the EBT Bridge card that the Department had issued to Respondent continued to be used for cash purchases and transactions. Ms. [redacted] further established that, as a result of Respondent's failure to comply with his reporting responsibilities, he received an over issuance of FAP and SDA benefits in the amounts of $[redacted] and $[redacted] respectively, for the period June 1, 2011 through October 31, 2011.

In response to the Department's presentation, Respondent did not disagree with the fact that he was incarcerated during the time period in question and that he failed to report his incarceration to the Department. Respondent further acknowledged that, during his incarceration, he gave his Bridge card to a friend to "hold onto."

Testimony and other evidence must be weighed and considered according to its reasonableness. *Gardiner v Courtright*, 165 Mich 54, 62; 130 NW 322 (1911); *Dep't of Community Health v Risch*, 274 Mich App 365, 372; 733 NW2d 403 (2007). Moreover, the weight and credibility of this evidence is generally for the fact-finder to determine. *Dep't of Community Health*, 274 Mich App at 372; *People v Terry*, 224 Mich App 447, 452; 569 NW2d 641 (1997).

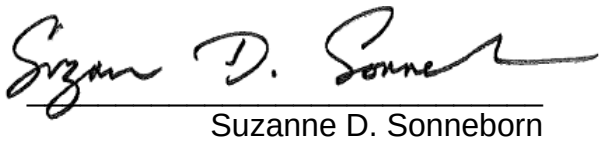
This Administrative Law Judge has carefully considered and weighed the testimony and other evidence in the record and finds that it was Respondent's obligation to timely and accurately report the onset of his incarceration, that Respondent understood this obligation, and that Respondent failed to comply with this obligation. Accordingly, based on the competent, material, and substantial evidence presented during the March 20, 2014 hearing, the Department properly determined that Respondent received an over issuance of FAP and SDA benefits in the amounts of $[redacted] and $[redacted] respectively, for the period June 1, 2011 through October 31, 2011.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department properly determined that Respondent received an over issuance of FAP and SDA benefits in the amounts of $[redacted] and $[redacted] respectively, for the period June 1, 2011 through October 31, 2011, which the department is required to recoup. Accordingly, the Department's recoupment of Respondent's over issuance of FAP and SDA benefits in the amount of $[redacted] is

UPHELD and the Department is ORDERED to initiate collection procedures in this amount in accordance with Department policy.

It is **SO ORDERED.**



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

Date Signed: March 27, 2014

Date Mailed: March 27, 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

SDS/hj

20145995/SDS

cc: [redacted]