

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

IN THE MATTER OF:



Reg. No.: 201433150
Issue No(s): 3006
Case No.: [REDACTED]
Hearing Date: May 14, 2014
County: Wayne (17)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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, an in-person hearing was held on May 14, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Recoupment Specialist.

ISSUE

Did Claimant receive an overissuance of Food Assistance Program (FAP) benefits that the Department is entitled to recoup?

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.
2. On October 15, 2012, Claimant notified the Department that her husband and daughter had moved back into her household.
3. On October 31, 2012, the Department recalculated Claimant's FAP benefits to include her husband in the FAP group for the period between April 1, 2012 and September 30, 2012 and issued a FAP supplement to Claimant totaling \$1002.
4. Claimant contacted the Department questioning the \$1002 FAP supplement because, even though she believed she was due a supplement for other reasons

and different time periods, she could not understand how the \$1002 supplement was calculated.

5. Claimant's worker advised her that she was entitled to the supplement.
6. On November 26, 2012, Claimant notified the Department that her husband was not in her household from April 1, 2012 to September 30, 2012.
7. On February 7, 2013, the Department sent Claimant a Notice of Overissuance advising her that, due to agency error, she was overissued \$1002 in FAP benefits for the period between April 1, 2012 and September 30, 2012.
8. On March 1, 2013, Claimant filed a request for hearing disputing the Department's actions.

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 273. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001 to .3015.

Claimant requested a hearing disputing the February 7, 2013 Notice of Overissuance sent by the Department notifying her that she was overissued FAP benefits totaling \$1002 for the period between April 1, 2012 and September 30, 2012.

At the hearing, the Department explained that in October 2012 it recalculated Claimant's FAP budget for April 2012 to September 2012 to include Claimant's husband in the household. Based on the recalculated budget, the Department concluded that Claimant, who had received \$200 in FAP benefits for each of the months at issue, was entitled to an additional \$167 in benefits for each month. On October 30, 2012, the Department deposited a \$1002 FAP supplement, representing the \$167 in benefits for each of the six months at issue, into Claimant's EBT food benefit account.

After Claimant questioned the calculation of the supplement and advised the Department that her husband was not in her household between April 1, 2012 and September 1, 2012, the Department sent Claimant the February 7, 2013 Notice of Overissuance notifying her that because of its error, it had improperly issued \$1002 in FAP benefits to her and, beginning February 19, 2013, it would recover the

overissuance through administrative recoupment by reducing her ongoing monthly benefits. The Department testified that it did not begin the administrative recoupment process because Claimant had requested a hearing.

When a client receives more benefits than entitled to receive, the Department must attempt to recoup the overissuance, even if the overissuance was caused by a Department error. BAM 725 (August 2012), p. 1; BAM 705 (July 2012), p. 1. All cases that contain an adult member from the original overissuance group and are active for the program in which the overissuance occurred are liable for the overissuance and subject to administrative recoupment. BAM 725, p. 3. The standard administrative recoupment percentage for FAP for agency error is 10 % (or \$10, whichever is greater). BAM 725, p. 6.

At the hearing, Claimant confirmed that, between April 1, 2012 and September 30, 2012, she was the only eligible FAP member in her household and her husband did not move into her home until October 2012. As the sole eligible member of her FAP group, Claimant was not eligible for more than \$200 in monthly FAP benefits, the maximum FAP benefits available to a group size of one. See RFT 260 (October 2011), p. 1. Therefore, Claimant was not eligible for the additional \$167 per month for the six-month period between April 1, 2012 and September 30, 2012, which resulted in the \$1002 supplement issued to her in October 2012. As such, the Department has established that it is entitled to recoup this overissuance.

At the hearing, Claimant expressed concerns about the financial hardship that would be imposed on her if she was required to repay the overissuance, even if through an administrative recoupment. She credibly testified that she made several attempts to discuss the calculation of her FAP supplement with the Department and that her worker was not responsive to her concerns. She also pointed out that she had requested a hearing in March 2013 and no hearing was scheduled until more than a year later; during this delay, she assumed that the matter had been resolved. She had hesitated to use the funds on her EBT card until more than a year after she had received the supplement deposited on her card.

Department policy provides that the Department can compromise (reduce or eliminate) an overissuance if it is determined that a household's **economic** circumstances are such that the overissuance cannot be paid within three years. BAM 725, p. 12. A request for a policy exception must be made by the recoupment specialist to the program office outlining the facts of the situation and the client's **financial** hardship and sent to the following address: Food Assistance Policy Office, Suite 1301, 235 S. Grand Ave, P.O. Box 30037, Lansing, MI 48909. At the hearing, the recoupment specialist advised Claimant to provide an explanation of her financial hardship the recoupment would cause for consideration of a compromise of the debt.

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 Claimant did receive an

overissuance for FAP benefits in the amount of \$1002 that the Department is entitled to recoup.

DECISION AND ORDER

Accordingly, the Department's action seeking recoupment is AFFIRMED.


Alice C. Elkin
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: May 20, 2014

Date Mailed: May 20, 2014

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides or has its principal place of business in the State, or the circuit court in Ingham County, within 30 days of the receipt date.

A party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (MAHS) within 30 days of the mailing date of this Hearing Decision, or MAHS may order a rehearing or reconsideration on its own motion.

MAHS may grant a party's Request for Rehearing or Reconsideration 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 party requesting a rehearing or reconsideration 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 this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, 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

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cc:

