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

IN THE MATTER OF:

[redacted]

Reg. No.: 2014-24075 REHD/RECON
Issue No.: 3003
Case No.: [redacted]
Hearing Date: July 29, 2014
County: Bay

ADMINISTRATIVE LAW JUDGE: Vicki L. Armstrong

DECISION AFTER REHEARING

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9, MCL 400.37, and Mich Admin Code Rule 400.909 upon an Order Granting Rehearing and Order Vacating a Hearing Decision generated by the assigned Administrative Law Judge (ALJ) at the conclusion of a hearing conducted on March 6, 2014, and mailed on March 12, 2014, in the above-captioned matter. The date for a new hearing having been assigned and due notice having been provided, an in-person hearing was conducted at the Bay County Department of Human Services (Department) office, on July 29, 2014. Participants on behalf of Claimant included her daughter, [redacted]. Participants on behalf of the Department included PATH Coordinator [redacted].

ISSUE

Whether the Department properly recouped Claimant's Food Assistance Program (FAP) benefits for an established recoupment of $[redacted] from February, 2013?

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 received benefits for Food Assistance Program (FAP).

2. On October 22, 2013, Claimant had an in-person hearing before Judge Lain to determine whether the Department properly calculated Claimant's FAP allotment. Judge Lain reversed the Department and ordered the Department to Redetermine Claimant's eligibility for FAP benefits for the months of April, 2013, through September, 2013; pay to Claimant any benefits that she had not received as a result of the Redetermination and notify Claimant in writing of her eligibility for FAP benefits for each month from April, 2013, through October, 2013.

3. On November 13, 2013, the Department sent Claimant a Notice of Case Action showing a computation of monthly income of $[redacted] below the simplified reporting limit of $[redacted] for a household of three. However, the Notice of Case Action did not indicate how much Claimant would be receiving in FAP benefits based on this calculation of monthly income. Instead, the Notice went on to show a Correction of Benefits. The Notice indicated that after checking Claimant's file, the Department found that it owed Claimant $[redacted] worth of benefits for the period of 7/1/13 to 11/30/13. The Department also noted Claimant owed the Department $[redacted] for a previously established overissuance. Therefore, the Department subtracted $[redacted] from the amount the Department owed Claimant to repay part or all of this overissuance. The Notice indicate Claimant would be receiving $[redacted] worth of benefits as follows: Claimant would still owe the Department $[redacted] and Claimant would receive a lump sum payment of $[redacted] worth of benefits in 11/13/13.

5. On November 21, 2013, Claimant submitted a timely hearing request disputing the amounts owed to the Department.

6. On March 6, 2014, Claimant had an in-person hearing.

7. On March 12, 2014, a Decision was issued upholding the Department's actions.

8. On April 9, 2014, Claimant submitted a timely request for reconsideration from the Decision dated March 12, 2014.

9. On June 9, 2014, an Order Denying Request for Reconsideration of the March 6, 2014, hearing was issued.

10. On July 8, 2014, Claimant submitted a request for reconsideration of the Denial issued on June 9, 2014.

11. On July 10, 2014, an Order Vacating Hearing Decision and Order to Schedule Matter for Hearing was issued.

CONCLUSIONS OF LAW

Department policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT).

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 (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, *et seq*., and 1997 AACS R 400.3001-3015.

As an initial matter, a meaningful prehearing conference was not scheduled or held before this hearing.

Because this was a rehearing, the issue was narrowed down to the Notice of Case Action dated November 13, 2013, indicating Claimant owed the Department $[redacted] for a previously established overissuance, with a $[redacted] balance. (See pages 75-77).

Claimant contends she has paid the overissuance and does not owe the Department any money. Claimant also showed this Administrative Law Judge multiple Bridges printouts showing how the Department kept changing the amounts she had paid.

The Department explained that there had been numerous help desk tickets in this case, and as each ticket was resolved a new Bridges printout would be sent to Claimant showing her the changes.

As a first step, this Administrative Law Judge requested the Department print a list of monies recouped from Claimant beginning May, 2013, to present, July, 2014, because the Bridges printouts Claimant was showing, indicated recoupment began in May, 2013.

The Department returned with a list (see Dept Ex. C, pp 1-6). However, the list showed recoupments beginning in July, 2013, not May, 2013. When questioned, the Department stated that Claimant had other recoupments and the monies toward the $[redacted] recoupment did not begin until July, 2013. Claimant stated that she has had only one recoupment. When asked why the payments from May, 2013, and June, 2013, were not on the printout, the Department stated those monies went toward another recoupment Claimant owed. Claimant was adamant that she has only ever had one recoupment. Since the recoupment on the Notice of Case Action dated for 11/13/13, is for $[redacted] and that Notice of Case Action is the reason for this hearing, that is the only recoupment being addressed in this Decision.

For ease of review, Claimant# [redacted], Case# [redacted], FAP Standard Recoupment for [redacted] through [redacted], posted [redacted] for $[redacted] currently shows an outstanding balance of $[redacted] (See Dept Ex. C, p 1). Again, Claimant testified that she has paid this and showed this Administrative Law Judge a sheaf of Bridges printouts in support.

The table below lists the payment date, transaction type, amount, and whether the amounts were posted or cancelled. (See Dept Ex. C, pp 1-6).

Transaction Date	Payment Date	Transaction Type	Amount	Status
[redacted]	[redacted]	Recoupment	$[redacted]	Posted
		Recoupment	$[redacted]	Posted
		Recoupment	$[redacted]	Posted
		Recoupment	$[redacted]	Posted
		Recoupment	$[redacted]	Posted
		Offset Suppl	$[redacted]	Posted

[redacted]	Offset Suppl	$[redacted] Posted
	Offset Suppl	$[redacted] Posted
	Offset Suppl	$[redacted] Posted
		$[redacted] (see Dept Ex. C, p 3).
[redacted]	Recoupment	$[redacted] Posted
	Offset Suppl	$[redacted] Posted
	Recoupment	$[redacted] Posted
	Recoupment	$[redacted] Posted
	Offset Suppl	$[redacted] Posted
	Offset Suppl	$[redacted] Posted
	Offset Suppl	$[redacted] Posted
	Cancelled	$[redacted] Posted
		$[redacted] (see Dept Ex. C, p 4)
[redacted]	Offset Suppl	$[redacted] Posted
	Cancelled	$[redacted] Posted
	Offset Suppl	$[redacted] Posted
	Cancelled	$[redacted] Posted
	Offset Suppl	$[redacted] Cancelled
	Offset Suppl	$[redacted] Cancelled
	Cancelled	$[redacted] Posted
	Offset Suppl	$[redacted] Cancelled
		$[redacted] – [redacted] = $[redacted] Posted (p 5)
[redacted]	Cancelled	$[redacted] Posted
	Offset Suppl	$[redacted] Cancelled
	Offset Suppl	$[redacted] Cancelled
	Recoupment	$[redacted] Posted
		$[redacted] - $[redacted] = $[redacted] Posted
		(See Dept Ex. C, p 6)

The Department was asked to explain what the "Cancelled" under Transaction type and Status type indicated. The Department representative did not know. A recess was taken and when the Department representative returned, she indicated she had checked with the Recoupment Specialist who also did not know.

With no indication from the Department as to what "Cancelled" meant, this Administrative Law Judge found that when the status indicated "Posted," those amounts were subtracted from Claimant's benefits. When the status indicated "Cancelled" those amounts were not subtracted from Claimant's benefits.

Adding up the amounts "Posted" as recoupments from Claimant's benefits toward the $[redacted] original recoupment as indicated by the Notice of Case Action dated [redacted], the total is $[redacted] and Claimant would be correct in that she has repaid the $[redacted] recoupment as indicated on the Notice of Case Action dated [redacted], in full as of [redacted].

Furthermore, the Department has failed to prove it acted correctly in Claimant's case. There were numerous discrepancies throughout the hearing. First and foremost, has Claimant ever had more than one recoupment? That issue was not before this Administrative Law Judge and therefore was not addressed. Second, was the amount of this recoupment $[redacted] as indicated on the Notice of Case Action on [redacted], or $[redacted] as indicated on the documents requested and submitted by the Department during the hearing? Third, what does "Cancelled" mean on the Bridges Claim Active History, requested and submitted by the Department and set out above by Transaction Date through to the Status? Fourth, Claimant testified that Judge Lain's Decision of [redacted] was never implemented. This issue was not addressed as this hearing was solely on the Notice of Case Action dated [redacted]. If this Notice of Case Action dated [redacted], was in response to Judge Lain's decision, then Claimant would be correct that that issue has not been addressed. The Department representative admitted that Claimant has submitted multiple hearing requests and there are indications that not all of Claimant's hearing requests have been addressed.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that the Department did not act properly in determining Claimant still owes a balance of $[redacted] on the $[redacted] recoupment as of the date of the hearing.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

The Department is ORDERED to **Redetermine** Claimant's FAP recoupment status for the $[redacted] back to [redacted], the Notice of Case Action.

If Claimant then requests a hearing on the Redetermination, the Department is to schedule and hold a **Meaningful Prehearing Conference** before scheduling for a hearing in this matter.

Vicki L. Armstrong
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: August 4, 2014

Date Mailed: August 5, 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

VLA/las

cc: [redacted]