

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-002475
Issue No.: 3006
Case No.: [REDACTED]
Hearing Date: [REDACTED] 22,2014
County: KALAMAZOO (39)

ADMINISTRATIVE LAW JUDGE: Lynn Ferris

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 September 22,2014, from Detroit , Michigan. Participants on behalf of the Department included [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 (8/1/12), pp. 16.

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 an OI during the period December 1, 2012 through August 31, 2013, due to Respondent's error.
3. The Department alleges that Respondent received a [REDACTED] OI that is still due and owing to the Department.

4. At the hearing, several of the OI FAP budgets were all reviewed and several were incorrect with respect to the calculation of the overissuance. The OI budgets for the months of [REDACTED] were incorrect due to clerical errors and the overissuances for those months were removed from the total.

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 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.

Additionally, in this case the Department pursued an overissuance based upon Agency Error and proceeded as such, even though the hearing summary prepared by the Department indicated that it should have been an IPV, however the Department elected to proceed on the basis of Agency Error.

The matter arises due to the Claimant's failure to report her daughter's employment earnings at Steak n Shake on the redetermination, and thus received more FAP benefits than she was otherwise entitled to receive. As part of its proofs, the Department presented budgets for each month it alleged an overissuance (December 1, 2012 through August 31, 2013). Some of the budgets as presented were conceded to be incorrect, namely the budgets for [REDACTED]. The errors were largely clerical errors and were conceded to be incorrect by the recoupment specialist who did not prepare the budgets, but did confirm the error, namely July 2013 added the wrong tip amount, different than that reported by the employer; the unreported earned income for the August budget was incorrectly added and should have been [REDACTED] and lastly, the tip amount for April was entered in the wrong amount. Exhibit 1, pp. 32-34. This being the case, the OI must be reduced by [REDACTED] for the three months calculated in error. The new OI amount should be [REDACTED].) The remainder of the budgets presented for the remaining months were correct.

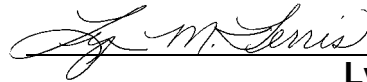
The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that the Department did establish a FAP benefit OI to Respondent totaling [REDACTED]

DECISION AND ORDER

Accordingly, the Department is:

AFFIRMED IN PART with respect to the new OI amount of [REDACTED] as the original OI amount as presented was not demonstrated by the Department evidence, and thus the OI was reduced.

The Department is ORDERED to initiate collection procedures for a [REDACTED] OI in accordance with Department policy.



Lynn Ferris
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: **10/01/14**

Date Mailed: **10/01/14**

LMF/tm

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, 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

cc:

