

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-005623
Issue No.: 3006
Case No.: [REDACTED]
Hearing Date: September 09, 2014
County: Oakland-District 3

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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, telephone hearing was held on September 09, 2014, from Lansing, Michigan. Participants on behalf of the Department included [REDACTED] and Assistance Attorney General [REDACTED].

Participants on behalf of Respondent included her attorney [REDACTED].

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 a FAP OI during the period November 1, 2012, through November 30, 2013, due to Department's error.
3. The Department alleges that Respondent received a \$ [REDACTED] OI that is still due and owing to the Department.

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).

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. The Michigan Administrative Hearing System (MAHS) may grant a hearing for any of the following:

MAHS may grant a hearing about any of the following:

- Denial of an application and/or supplemental payments.
- Reduction in the amount of program benefits or service.
- Suspension or termination of program benefits or service.
- Restrictions under which benefits or services are provided.
- Delay of any action beyond standards of promptness.
- For FAP only, the current level of benefits or denial of expedited service. Department of Human Services Bridges Administrative Manual (BAM) 600 (March 1, 2014), p 4.

The Department of Human Services Bridges Administrative Manual (BAM) 600 (March 1, 2014), p. 5, provides in relevant part as follows:

The client or authorized hearing representative has *90 calendar days from the date of the written notice of case action to request a hearing*. The request must be received anywhere in DHS within the 90 days. [Emphasis added.]

On December 11, 2013, the Department notified the Respondent of its intent to recoup an overissuance of Food Assistance Program (FAP) due to Department error. On June 18, 2014, the Department received a request for a hearing, protesting the recoupment of the Food Assistance Program (FAP) overissuance.

The Department requests hearings for debt establishment and collection purposes. The hearing decision determines the existence and collectability of a debt to the agency [Department]. The Department requests a debt collection hearing when the grantee of an inactive program requests a hearing after receiving the DHS-4358B, Agency and Client Error Information and Repayment Agreement. Active recipients are afforded their hearing rights automatically, but the Department must request hearings when the program is inactive. Department of Human Services Bridges Administrative Manual (BAM) 725 (July 1, 2013), pp 16-17.

This Administrative Law Judge finds the Respondent's request for a hearing to fall within the jurisdiction of the Michigan Administrative Hearing System (MAHS) because the Department's policies in effect at the time the notice of overissuance was sent to the Respondent require a hearing decision to determine the existence and collectability of a debt.

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.

The Department received the Respondent's application for Food Assistance Program (FAP) benefits on September 7, 2011. On this application for assistance, the Respondent reported her residence in a group home where meals are provided.

A person is a resident of an institution when the institution provides the majority of his meals as part of its normal services. Residents of institutions are not eligible for FAP unless one of the following is true:

- The facility is authorized by the Food and Consumer Service to accept FAP benefits.
- The facility is an eligible group living facility.
- The facility is a medical hospital and there is a plan for the person's return home. Department of Human Services Bridges Eligibility Manual (BEM) 212 (October 1, 2013), p 8.

A facility is not permitted to accept food assistance benefits for meals served to its residents. Clients may use their food assistance benefits for purchases at regular outlets. In order to be eligible for FAP as an adult foster care home resident, the home must be nonprofit and licensed for 16 or fewer residents. Nonprofit means IRS tax exempt. Department of Human Services Bridges Eligibility Manual (BEM) 615 (July 1, 2013), pp 1-2.

In this case, the group home where the Respondent resided did not dispute that they were not a facility authorized to receive Food Assistance Program (FAP) benefits. The accounting department at this group home offered to repay the benefits the Respondent received but this request was not acted upon.

The Respondent applied for Food Assistance Program (FAP) benefits, but based on the circumstances listed on her application for benefits, she was not eligible to participate in the program. Later, the group home where the Respondent resided reported her ineligibility to the Department, but the Department failed to act upon this correspondence. This Administrative Law Judge finds that as a result of the Department's failure to act upon the available information, the Respondent was issued Food Assistance Program (FAP) benefits that she was not eligible to receive and the Department is obligated to recoup these overissued benefits.


Despite the full and open reporting of her circumstances by her representatives, the Respondent received an overissuance of Food Assistance Program (FAP) benefits due to Department error, and the Department's debt collection must be upheld.

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

DECISION AND ORDER

Accordingly, the Department is **AFFIRMED**.

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



Kevin Scully
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: **9/16/2014**

Date Mailed: **9/16/2014**

KS/las

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:

A large black rectangular redaction box covers the names and email addresses of the recipients listed under the 'cc:' field.