

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-010526
Issue No.: 3006
Case No.: [REDACTED]
Hearing Date: September 24, 2014
County: Wayne (17)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 September 24, 2014, from Detroit, Michigan. Participants included the above-named Claimant, [REDACTED], Specialist, [REDACTED], Manager, and [REDACTED] Program Manager, testified on behalf of Department of Human Services (DHS).

ISSUE

The issue is whether DHS properly determined the amount to be administratively recouped from Claimant's Food Assistance Program (FAP) eligibility.

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 was an ongoing FAP benefit recipient.
2. On 5/20/14, the Michigan Administrative Systems (MAHS) issued a Hearing Decision (Exhibits A3-A7) authorizing DHS to recoup \$1002 in FAP benefits from Claimant.
3. On 8/11/14, DHS issued a Notice of Case Action (Exhibits A1-A2) stating that Claimant owes \$1121 in previously established over-issuances.
4. On 8/18/14, Claimant requested a hearing to dispute the amount of FAP benefits which DHS is attempting to recoup.

CONCLUSIONS OF LAW

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 271.1 to 285.5. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10 and Mich Admin Code, R 400.3001 to .3015. Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM) and Department of Human Services Bridges Eligibility Manual (BEM) and Department of Human Services Reference Tables Manual (RFT).

Claimant requested a hearing to dispute an amount of FAP benefits allegedly owed due to overissuance error. Claimant conceded that a MAHS administrative hearing decision (Exhibits A3-A7) authorized DHS to recoup \$1002 in FAP benefits from Claimant. Claimant requested a hearing after she received a subsequently mailed Notice of Case Action (Exhibits A1-A2) which stated that Claimant owed \$1121 in over-issued FAP benefits.

Active programs are subject to Administrative Recoupment (AR) for repayment of over-issuances. BAM 725 (7/2014), p. 6. The overissuance balance is calculated by Benefit Recovery System. *Id.*, p. 4.

DHS conceded that Claimant's FAP over-issuance balance, as of 7/2014, was \$1,002. The DHS testimony was consistent with a Claim Search (Exhibit 1) which verified that Claimant's only active FAP recoupment involved an original \$1,002 balance. The Claim Search also verified an outstanding balance of \$825, as of the date of hearing. It is found that DHS established a basis to administratively recoup no more than \$1,002 in FAP benefits from Claimant.

This decision only addresses the amount of over-issuance established by DHS through the date of hearing. DHS testimony suggested that Claimant's case may be subjected to future recoupment actions. If other over-issuances in Claimant's FAP history are discovered, DHS must follow their policy in order to establish a basis for recoupment or other debt collection methods.

Claimant contended that DHS must explain why a Notice of Case Action misstated her FAP benefit over-issuance balance. DHS acknowledged their misstatement but had no explanation for it. If DHS cannot figure out what triggered the misstatement, it is reasonably possible that the error will be repeated, or worse, that DHS attempts to recoup an extra \$130 in FAP benefits from Claimant.

Claimant's annoyance with the DHS failure to explain the mistake is appreciated. Claimant is entitled to an administrative remedy; the below order reflects that remedy. Claimant is not entitled to an explanation.

As of the date of hearing, DHS has not attempted to collect more than \$1,002 in FAP benefits from Claimant. DHS has also verified that only a claim of \$1,002 in administrative recoupment is sought from Claimant. The below order does not require DHS to perform any actions to redress Claimant other than not pursuing administrative recoupment beyond the \$1,002 established by administrative decision.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that, as of 7/2014, DHS improperly failed to establish a basis for administrative recoupment beyond \$1,002 against Claimant. It is ordered that DHS cease recoupment actions for \$130 in unauthorized recoupment against Claimant. The actions taken by DHS are **REVERSED**.



Christian Gardocki
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: **10/3/2014**

Date Mailed: **10/3/2014**

CG / hw

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:

