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

IN THE MATTER OF:

[redacted]

Reg. No.: 14-003935
Issue No.: 3006
Case No.: [redacted]
Hearing Date: October 22, 2014
County: WEXFORD

ADMINISTRATIVE LAW JUDGE: Darryl Johnson

HEARING DECISION

Upon a hearing request by the Department of Human Services (Department) to establish an over issuance (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 three-way telephone hearing was held on October 22, 2014, from Lansing, Michigan. Participants on behalf of the Department included Recoupment Specialist [redacted] and Family Independence Manager [redacted].

Participants on behalf of Respondent included Respondent.

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 June 1, 2013, through May 31, 2014, 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).

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.

According to BEM 203, people convicted of certain crimes, fugitive felons, and probation/parole violators are not eligible for assistance.

BEM 203 at page 2 provides that for FAP, "[a]n individual convicted of a felony for the use, possession, or distribution of controlled substances **two or more times** will be permanently disqualified if both offenses occurred after August 22, 1996." (Emphasis added).

The Michigan Department of Human Services (DHS) routinely matches recipient data with other agencies through automated computer data exchanges. BAM 811. Information provided with DHS applications (DHS-1010, -4574, -4574-B, -4583 and DCH-373) inform clients of the data exchange process. BAM 811.

The Department has produced evidence, which was not controverted by Respondent, that Respondent had two or more drug-related felonies since [redacted]. Respondent had reported those convictions on his application, but the Department had missed that when it processed his application. The Department also produced evidence that Respondent received [redacted] in benefits from June 1, 2013, through May 31, 2014. Respondent made the point that, while he might not have been eligible to receive FAP, part of the FAP was awarded because his girlfriend was living with him and was part of his group. That is a credible argument, but it does not stand up to the facts in this case.

The Department submitted budgets reflecting income that Respondent did not report during the period in question. Those budgets are found in (Exhibit 1 Pages 7-29.) The Department had discovered through a wage match that Respondent had received unemployment compensation benefits during the period and had not reported his income. That would constitute a client error rather than an agency error. Those budgets establish that Respondent received more in benefits than he would have received had he reported his income. An issuance summary is found at Exhibit 1 Page 6, and it is sufficient evidence to establish that Respondent received [redacted] in benefits when he, and his girlfriend, should not have received any.

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.**

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

Darryl Johnson
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: **10/30/2014**

Date Mailed: **10/30/2014**

DJ/jaf

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: [redacted]