

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-012749
Issue No.: 3008
Case No.: [REDACTED]
Hearing Date: November 03, 2014
County: Calhoun

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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, a telephone hearing was held on November 3, 2014, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED].

ISSUE

Did the Department properly determine that the Claimant received an overissuance 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. The Claimant was a Food Assistance Program (FAP) recipient as a group of five from January 1, 2014, through June 30, 2014.
2. On February 19, 2014, the Claimant applied for State Emergency Relief (SER) benefits as a group of four.
3. On September 17, 2012, the Department notified the Claimant that it intended to recoup \$ [REDACTED] of allegedly overissued Food Assistance Program (FAP) benefits.
4. On September 25, 2014, the Department received the Claimant's request for a hearing, protesting the recoupment of overissued Food Assistance Program (FAP) benefits.

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), Department of Human Services Reference Tables Manual (RFT), and Department of Human Services Emergency Relief Manual (ERM).

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.

FAP group composition is established by determining who lives together, the relationship of the people who live together, whether the people living together purchase and prepare food together or separately, and whether the persons resides in an eligible living situation. Department of Human Services Bridges Eligibility Manual (BEM) 212 (November 1, 2012), p 1.

When a client group receives more benefits than it is entitled to receive, DHS must attempt to recoup the overissuance. Department of Human Services Bridges Administrative Manual (BAM) 700 (May 1, 2014), p 1.

The Claimant was an ongoing Food Assistance Program (FAP) as a group of five when she submitted an application for State Emergency Relief (SER) benefits. On her State Emergency Relief (SER) application, the Claimant reported a benefit group of four.

The Department initiated a routine investigation into the size and composition of the Claimant's household and benefit group. The Department discovered that the Claimant received Food Assistance Program (FAP) benefits from January 1, 2014, through June 30, 2014, as a group of five when there were only four people living in her household. The Claimant received Food Assistance Program (FAP) benefits as a group of five that she would not have received if the Department had determined her benefit level as a group of four. If the Claimant failed to report that a group member had left her household, the Department is obligated to recoup the overissued benefits.

The Claimant testified that she had reported to the Department that one person had left her household in November of 2013.

This Administrative Law Judge finds that the Department has presented substantial evidence showing that the Claimant received Food Assistance Program (FAP) benefits as a group of five when she was only eligible as a group of four. The Claimant has failed to establish that she was entitled to Food Assistance Program (FAP) benefits as a group of five from January 1, 2014, through June 30, 2014.


Furthermore, if the Claimant had reported a change to her benefit group size in a timely manner and the Department failed to act on this report, the Department would still be required to initiate a recoupment of Food Assistance Program (FAP) benefits because the Claimant was not entitled to them.

It should be noted that the Department has not alleged that the Claimant received an overissuance through any fraud or misrepresentation on her part.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department acted in accordance with Department policy when it determined that the Claimant received an overissuance of Food Assistance Program (FAP) benefits that the Department is obligated to recoup.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.



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

Date Signed: **11/5/2014**

Date Mailed: **11/5/2014**

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:

