

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-015789
Issue No.: 3008
Case No.: [REDACTED]
Hearing Date: December 11, 2014
County: CALHOUN (DISTRICT 21)

ADMINISTRATIVE LAW JUDGE: Susanne E. Harris

HEARING DECISION

Following the 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 December 11, 2014, from Lansing, Michigan. Participants on behalf of the Claimant included [REDACTED]. Participants on behalf of the Department of Human Services (Department) included Recoupment Specialist, [REDACTED].

ISSUE

Did the Department properly take action to reduce the Claimant's Food Assistance Program (FAP) monthly allotment?

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 recipient of ongoing FAP benefits in the amount of \$ [REDACTED] per month.
2. From April 2013 to August 2013, the Claimant received unemployment compensation benefits that he did not report to the department.
3. The Claimant never reported his unemployment compensation benefit income and was issued FAP benefits as if he had not had that income.
4. On October 28, 2014, the Department sent the Claimant a DHS-4358-A, Notice of Overissuance informing the Claimant that his monthly FAP allotment would be reduced to \$ [REDACTED] per month.

5. On November 13, 2014, the Department received the Claimant's written hearing request protesting the Department's actions.

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.

In this case, the Claimant does not contest that he received unemployment compensation benefits from April 2013 to August 2013, which he did not report to the department. The Claimant indicates that he has the mental disabilities of bipolar disorder and a closed head injury and he is not good with numbers and dates and has difficulty remembering. The Claimant testified that he is subject to an unemployment compensation benefits recoupment for the months at issue in this case. The Department supported this testimony.

Bridges Administrative Manual (BAM) 700 (2014) p. 1, provides that when a client group receives more benefits than it is entitled to receive, the Department must attempt to recoup the overissuance. The facts in this case are essentially not contested. Therefore, the Administrative Law Judge determines that when the Department took action to lower the Claimant's monthly FAP allotment to recoup his overissuance, the Department was acting in accordance with its policy.

Additionally, Bridges Eligibility Manual (BEM) 500 (2013) pp. 4, 5, provides that when benefits are returned to the issuing agency they are not part of gross income. They are excluded as income and assets. Amounts deducted by an issuing agency to recover a previous overpayment or ineligible payment are not part of gross income. These amounts are excluded as income. Therefore, should the Claimant have his income garnished to repay the overissuance of his unemployment benefits, the repayment amount determined is not part of the Claimant's monthly income. As such, the Administrative Law Judge did remind the Claimant of his responsibility to report all changes in his income, including any potential garnishments, within 10 days to his departmental worker.

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 took action to reduce the Claimant's monthly FAP allotment.

DECISION AND ORDER

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

Susanne E. Harris

Susanne E. Harris
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: **12/12/2014**

Date Mailed: **12/12/2014**

SEH/hj

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 48909-8139

cc:

