

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-014899
Issue No.: 2000, 3007
Case No.: [REDACTED]
Hearing Date: December 02, 2014
County: CALHOUN (DISTRICT 21)

ADMINISTRATIVE LAW JUDGE: Gary Heisler

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 December 2, 2014, from Lansing, Michigan. Participants on behalf of Claimant included herself. Participants on behalf of the Department of Human Services (Department) included RS [REDACTED]

ISSUE

Did Claimant receive a \$ [REDACTED] Medical Assistance over-issuance, due to client error between July 1, 2014 and August 31, 2014 that the Department is entitled to recoup?

Did Claimant receive a \$ [REDACTED] Food Assistance Program over-issuance, due to client error between July 1, 2014 and August 31, 2014 that the Department is entitled to recoup?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On July 21, 2014, Claimant submitted an application for Family Independence Program, Medical Assistance and Food Assistance Program benefits. On the application Claimant reported she was not getting Food Stamps.
2. On July 28, 2014, Claimant reported she had received cash benefits in Illinois but they ended in June. DHS CW [REDACTED] requested information from Illinois.
3. On July 30, 2014, CW [REDACTED] made a second request for information from Illinois
4. On August 7, 2014, Claimant was approved for Food Assistance Program benefits.
5. On August 12, 2014, Illinois informed CW [REDACTED] that Claimant's medical and TANF cases were scheduled to close September 5, 2014.

6. On August 13, 2014, Illinois informed CW [REDACTED] that Claimant's SNAP and medical benefits would end August 31, 2014.
7. Claimant received Food Assistance Program benefits from both Michigan and Illinois during the months of July and August 2014, due to client error.
8. Claimant received a Food Assistance Program over-issuance of \$ [REDACTED] between July 21, 2014 and August 31, 2014 due to Client error.
9. On October 27, 2014, Claimant was sent a Notice of Over-Issuance (DHS-4358) regarding the Food Assistance Program over-issuance.
10. On October 30, 2014, Claimant filed a hearing request on the Hearing Request for Over-Issuance or Recoupment Action (DHS-4358-D) sent to her about the Food Assistance Program over-issuance.
11. On November 5, 2014, RS [REDACTED] submitted the hearing packet to the Michigan Administrative Hearing System. Box 14 of the Hearing Summary (DHS-3050) only indicates the Food Assistance Program is at issue. The explanation section of the Summary states there was also a Medical Assistance over-issuance.

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).

Medical Assistance

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department (formerly known as the Family Independence Agency) administers the MA program pursuant to 42 CFR 435, MCL 400.10 and MCL 400.105-.112k.

Bridges Administration Manual (BAM) 715 Client/CDC Provider Error Over-Issuance (2014) states:

OVERISSUANCE PROCESSING

All Programs

FIS/ES Actions

When a potential over-issuance is discovered, do all of the following:

Take immediate action to correct the current benefits; see BAM 220, Case Actions, for change processing requirements.

Obtain initial evidence that an over-issuance potentially exists.

Determine if it was caused by department, provider or client actions.

Refer all client errors to the RS within **60 days** of suspecting or if a suspected over-issuance exists.

Recoupment Specialist Referral

MA Only

Do not refer MA client errors to the RS; see BAM 710 for client error and suspected IPV processing.

Bridges Administration Manual (BAM) 710 Recoupment of MA Over-Issuances (2013) states:

DEPARTMENTAL POLICY

MA Only

Initiate recoupment of an over-issuance (OI) due to **client error or intentional program violation (IPV)**, **not** when due to **agency error** (see BAM 700 for definitions). Proceed as follows:

Determine the OI period and amount.

Determine the OI Type (client error or suspected IPV).

Initiate recoupment of an OI due to client error.

PROCEDURES

Document your decisions and actions on the application form. Your manager must review the case record.

MA Payment Information

Complete and email the DHS FIELD REQUESTS-DCH OIG Incoming Data Request Form to OHSIGDataRequests@michigan.gov to obtain a list of MA payments in the OI period.

Over-issuance Determination

When you receive the amount of MA payments, determine the OI amount.

OIG Referral

The **minimum** OI amount for OIG referral is **\$500 unless** the local prosecutor sets a lower amount. OIG through regular channels informs affected local offices of lower amounts.

You may refer an IPV that is **under** the set minimum **if** the group's actions are repetitious or flagrant. The local office director or designee must approve the referral.

Recoupment

Before you initiate recoupment, your manager or a designee must review the MA case. After review, notify the client (or legal guardian) in writing that:

DHS must seek recoupment, **but**

Refusal to repay will **not** cause denial of current or future MA if the client is otherwise eligible.

If recoupment is agreed to, complete a DHS-4358B, Recoupment Agreement, have the client/guardian sign it, then forward the original to the local office fiscal unit for collection. If he **refuses** to sign it, inform the fiscal unit in writing.

Department policy does not indicate that any hearing process is involved in recoupment of a client error Medical Assistance over-issuance. The Notice of Over-Issuance (DHS-4358) sent to Claimant only addressed the Food Assistance Program over-issuance. When Claimant submitted the Hearing Request for Over-Issuance or Recoupment Action (DHS-4358-D), she only had knowledge of the Food Assistance Program over-issuance. There is nothing in Department policy or the facts of this case sufficient to establish jurisdiction to address the client error Medical Assistance over-issuance.

Food Assistance Program

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.

During this hearing Claimant stated that she does not feel that she did anything wrong. Evidence in this record shows that Claimant marked her application to show she was not receiving Food Assistance Program benefits during the month of application. The Department has classified this Food Assistance Program over-issuance as a client error. It is possible that Claimant was unaware of still being active for Food Assistance Program in Illinois.

Bridges Administration Manual (BAM) 715 under definitions, for all programs, states:

A client/CDC provider error over-issuance occurs when the client received more benefits than they were entitled to because the client/CDC provider gave incorrect or incomplete information to the department.

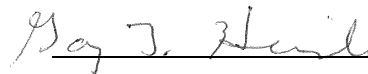
The information provided by Illinois shows that between July 21, 2014 and August 31, 2014, Claimant received dual Food Assistance Program benefits. Bridges Eligibility Manual (BEM) 222 Concurrent Receipt of Benefits (2013) at page 3 says "A person **cannot** receive FAP in more than one state for any month."

Based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, the Administrative Law Judge concludes that Claimant received a \$ [REDACTED] client error over-issuance of Food Assistance Program benefits between July 21, 2014 and August 31, 2014 that the Department is entitled to recoup.

DECISION AND ORDER

Accordingly, the Department's action seeking recoupment of a client error Medical Assistance over-issuance is **DISMISSED** for lack of jurisdiction.

Accordingly, the Department's action seeking recoupment of the client error Food Assistance Program over-issuance is **AFFIRMED**.



Gary Heisler
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: **12/15/2014**

Date Mailed: **12/15/2014**

GFH/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:

