

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

IN THE MATTER OF:



Reg. No.: 14-016068
Issue No.: 3007
Case No.:
Hearing Date: December 17, 2014
County: INGHAM

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 17, 2014, from Lansing, Michigan. Participants on behalf of Claimant included himself. Participants on behalf of the Department of Human Services (Department) included RS

ISSUE

Did Claimant receive a \$ agency error over-issuance of Food Assistance Program benefits between September 1, 2014 and September 30, 2014, which 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. Claimant had custody of four of his grand-children and was receiving Food Assistance Program benefits for his household.
2. On August 20, 2014, a Circuit Court Family Division issued approval for the four children to return to their mother's household, contingent on final approval of CPS worker Potter.
3. On August 28, 2014, the four children did transfer from Claimant's household back to their mother's household.
4. On October 17, 2014, Claimant was sent a Notice of Over-Issuance (DHS-4358).
5. On November 17, 2014, Claimant submitted a Hearing Request for Over-Issuance or Recoupment Action (DHS-4358-D).

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 RS Shumaker was told that the children had left Claimant's household on August 14, 2014. RS Shumaker used that date in her calculation of this alleged over-issuance. During this hearing Claimant testified that the children did not leave his home until August 28, 2014, the day after his daughter gave birth to another child. The information provided by CPS worker Potter confirms Claimant's testimony.

Bridges Administration Manual (BAM) 705 Agency Error Over-Issuances (2014) directs the calculation of an over-issuance period and any over-issuance amount in this case. The determination that August 28, 2014, is the date that Claimant's Food Assistance Program benefit group changed, undoes the calculated over-issuance period and any over-issuance amount in this case. The authority and jurisdiction of an Administrative Law Judge is limited to review of this Departmental over-issuance determination. There is no authority or jurisdiction in this hearing to make any subsequent over-issuance determination using August 28, 2014 as the date of change. Neither is there authority or jurisdiction in this hearing to order the Department not to revisit the over-issuance question using August 28, 2014 as the date of change.

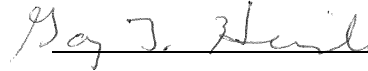
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it calculated this alleged Food Assistance Program over-issuance based on August 14, 2014 being the date Claimant's Food Assistance Program benefit group changed.

DECISION AND ORDER

Accordingly, the Department's decision is **NOT UPHELD**.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Supplement any Food Assistance Program benefits which Claimant was otherwise eligible for but did not receive due to this incorrect recoupment action.



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

Date Signed: **12/23/2014**

Date Mailed: **12/23/2014**

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:

