

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

IN THE MATTER OF:

████████████████████
████████████████████
████████████████████

Reg. No.: 14-000659
Issue No.: 3006
Case No.: ██████████
Hearing Date: June 11, 2014
County: Kalamazoo

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

HEARING DECISION

Upon a hearing request by the Department of Human Services (Department) to establish an overissuance (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 telephone hearing was held on June 11, 2014 from Lansing, Michigan. Participants on behalf of the Department included ██████████ ██████████ (Recoupment Specialist). Respondent did not appear. This matter having been initiated by the Department and due notice having been provided to Respondent, the hearing was held in Respondent's absence in accordance with Department of Human Services Bridges Administrative Manual (BAM) 725 (7-1-2013), pp. 22.

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 October 1, 2013 through February 28, 2014 due to Respondent's error.
3. The Department alleges that Respondent received a ██████████ OI that is still due and owing to the Department.
4. Respondent was an active FAP recipient at the time of the hearing.

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.

For all programs, when the client group or CDC provider receives more benefits than entitled to receive, DHS must attempt to recoup the overissuance (OI). BAM 725 (7-1-2013) p 1. An OI is the amount of benefits issued to the client group (or CDC provider) in excess of what it was eligible to receive. BAM 700, p. 1. For FAP benefits, an OI is also the amount of benefits trafficked (traded or sold). "Recoupment" is a DHS action to identify and recover a benefit OI. BAM 700, p. 1.

All cases that contain an adult member from the original overissuance group and are active for the program in which the overissuance occurred are liable for the overissuance and subject to administrative recoupment. BAM 725, p 3. Active programs are subject to Administrative Recoupment (AR) for repayment of overissuances. Administrative recoupment continues until program closure or all collectible overissuances are repaid. BAM 725, pp 6-7. Administrative Recoupment (AR) is an automated Bridges process that reduces current DHS benefits in order to obtain repayment on overissuances for a program. BAM 725, p 1.

Here, the Department contends that Respondent received an OI of FAP benefits due to her failure to timely report earnings from Walmart from October 1, 2013 through February 28, 2014. Although Respondent indicated that she wanted a hearing to dispute the alleged OI, she failed to attend the administrative hearing in this matter.

Testimony and other evidence must be weighed and considered according to its reasonableness. *Gardiner v Courtright*, 165 Mich 54, 62; 130 NW 322 (1911); *Dep't of Community Health v Risch*, 274 Mich App 365, 372; 733 NW2d 403 (2007). The weight and credibility of this evidence is generally for the fact-finder to determine. *Dep't of Community Health*, 274 Mich App at 372; *People v Terry*, 224 Mich App 447, 452; 569 NW2d 641 (1997). Moreover, it is for the fact-finder to gauge the demeanor and veracity of the witnesses who appear before him, as best he is able. See, e.g., *Caldwell v Fox*, 394 Mich 401, 407; 231 NW2d 46 (1975); *Zeeland Farm Services, Inc v JBL Enterprises, Inc*, 219 Mich App 190, 195; 555 NW2d 733 (1996).

This Administrative Law Judge has carefully considered and weighed the testimony and other evidence in the record. First, it should be noted that Respondent failed to attend

the hearing in this matter and that the evidence shows that she is an active FAP recipient. Accordingly, the Department was not required to proceed with a hearing and may pursue administrative recoupment.

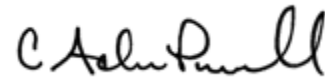
The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that the Department did establish a FAP benefit OI to Respondent totaling [REDACTED].

DECISION AND ORDER

Accordingly, the Department is **AFFIRMED**.

The Department is **ORDERED** to initiate collection procedures and/or (if Respondent is active for FAP) administrative recoupment, for a \$1,196.00 OI in accordance with Department policy.

IT IS SO ORDERED.



C. Adam Purnell
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: **6/13/2014**

Date Mailed: **6/16/2014**

CAP/sw

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;

