

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

IN THE MATTER OF:

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

Reg. No.: 14-000731
Issue No(s): 3006
Case No.: ██████████
Hearing Date: July 31, 2014
County: Cass (00)

ADMINISTRATIVE LAW JUDGE: Jacquelyn A. McClinton

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, telephone hearing was held on July 31, 2014, from Detroit, Michigan. Participants on behalf of the Department included ██████████, Recoupment Specialist, and ██████████ (Observer), Family Independence Manager.

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 (April 2011), p. 18.

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 September 1, 2011 through February 29, 2012, due to Department's error.

3. The Department alleges that Respondent received a \$375.00 OI that is still due and owing to the Department.

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.

Additionally, when a client group receives more benefits than they are entitled to receive, the Department must attempt to recoup the OI. BAM 700 (January 2011), p. 1. An agency error OI is caused by incorrect actions by the Department, including delayed or no action, which result in the client receiving more benefits than they were entitled to receive. BAM 700, p. 5. A client error OI occurs when the client received more benefits than they were entitled to because the client gave incorrect or inaccurate information to the Department. BAM 700, p. 3.

The amount of the OI is the benefit amount the client actually received minus the amount the client was eligible to receive. BAM 715 (January 2011), p. 5; BAM 705 (January 2011), p. 5.

In this case, the Department alleges that Respondent received an OI of FAP benefits in the amount of \$375.00 from September 1, 2011 through February 29, 2012 due to Agency error. On July 1, 2011, Respondent applied for FAP benefits and informed the Department that he was no longer receiving unemployment benefits. On August 1, 2011, the Department performed a consolidated inquiry which revealed that Respondent received an extension and began receiving unemployment benefits under the extension effective July 13, 2011. Although Respondent never reported the extension, the Agency stated that it considered the OI to be Agency error because it should have redetermined Respondent's eligibility as of August 1, 2011. The Department testified that it had been aware that Respondent was receiving monthly Veterans Administration benefits in the amount of \$1,124.00 and that unearned income was the only income previously calculated.

At the hearing, the Department established that the State of Michigan issued \$407.00 in FAP benefits to Respondent from September 1, 2011 through February 29, 2012. The Department alleges that Respondent was eligible for \$32.00 in FAP benefits during this period. The Department also provided FAP OI budgets for review. A review of the FAP OI budgets showed a calculation of the correct amount in which Respondent was


entitled for each month during the period at issue when the unreported unemployment income was included. Based on the calculation, the Department properly determined that Respondent was entitled to \$32.00 during the OI period causing an OI in the amount of \$375.00.

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 \$375.00.

DECISION AND ORDER

Accordingly, the Department is **AFFIRMED**.

The Department is **ORDERED** to initiate collection procedures for a \$375.00 OI in accordance with Department policy.



JACQUELYN A. MCCLINTON
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: August 20, 2014

Date Mailed: August 20, 2014

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides or has its principal place of business in the State, 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:

14-000731/JAM

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

JAM/cl

cc: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
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