

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

IN THE MATTER OF:

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

Reg. No.: 14-001893
Issue No.: 3001, 2001
Case No.: ██████████
Hearing Date: June 4, 2014
County: OAKLAND- 2

ADMINISTRATIVE LAW JUDGE: LYNN M. FERRIS

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 June 4, 2014, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████ ██████████, Eligibility Specialist and ██████████, Assistance Payments Supervisor.

ISSUE

Did the Department properly pay the Claimant's son's SSI state Quarterly Supplement?

Did the Department properly calculate the Claimant's Food Assistance (FAP) budget and deny the Claimant's application due to excess net income?

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's son is eligible to receive State SSI payments of ██████████ quarterly. The Quarterly payments have been made by the State of Michigan DHS to SSA. Exhibit 1.
2. At the time of its determination, denying the Claimant's application for FAP benefits the Claimant was receiving Unemployment compensation benefits of ██████████ biweekly. Exhibit 3
3. The Claimant's son receives a monthly payment of ██████████ in SSI from the SSA and the SSA deducts ██████████ from the Claimant's SSI check. The total amount of

SSI before the deduction is [REDACTED]. The Department used [REDACTED] when calculating the FAP benefits.

4. The Department issued a Notice of Case Action on 4/23/14 denying the Claimant's food assistance application.
5. The Claimant requested a hearing on 4/28/14 protesting the denial of the FAP application and failure to pay the State Quarterly supplement.

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.

The State SSI Payments (SSP) program is established by 20 CFR 416.2001-.2099 and the Social Security Act, 42 USC 1382e. The Department administers the program pursuant to MCL 400.10.

Additionally, in this matter the Department presented proofs that the SSI state quarterly payments were made to the Social Security Administration, (SSA). The Department's proofs demonstrated that the payments have been made ongoing since April 2013 and a payment was made March 10, 2014. Exhibit 1. The Claimant offered no proofs that the payment was not received from SSA by her son. Thus, the Department has met its burden of proof and has demonstrated that the payments were made ongoing.

As regard the Food Assistance calculations the Department properly determined the correct income received by the Claimant for unemployment benefits in the amount of [REDACTED] biweekly. The Department did not consider whether it should have excluded [REDACTED] of unearned income from the SSI check received by the Claimant's son when calculating the son's unearned income for purposes of determining FAP benefits. When calculating FAP the department used \$[REDACTED] in unearned income and did not exclude the amount being repaid to SSA and did not determine whether the deduction was to determine an overpayment.

BEM 500, pp.5 (1/1/14) provides:

Returned Benefits

Benefits returned to the issuing agency are not part of gross income. They are excluded as income and assets.

Example: Mary returns her deceased mother's social security check to SSA. Do not enter such payments in Bridges.

Reduced Benefits Due to Overpayment

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.

Exceptions: The following overpayment amounts **must** be included in gross income:

- Any portion of an overpayment (that is normally countable) if the original payment was excluded income when received.
- Cash assistance recoupment amounts due to IPV are automatically counted for FAP in Bridges.
- SSI amounts recouped due to Intentional Program Violation (IPV) are included in countable gross income for cash assistance programs and FAP.

IPV means there is a finding of fraud or an agreement to repay in lieu of prosecution. Do not exclude recouped SSI when IPV information is volunteered by the SSI recipient or other reliable source. Do not initiate any contacts to obtain this information.

Based upon the information provided at the hearing the Department must verify whether the Claimant is repaying an overpayment of SSI benefits from SSA whether the repayment is due to some other reason other than overpayment. The reason for the deduction should be verified by the Department and if the reduction of SSI benefits is due to overpayment of benefits by the SSA agency, the FAP budget must be recalculated to adjust the unearned income amount accordingly.

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 paid the SSI quarterly payment to SSA for the Claimant's son.

did not act in accordance with Department policy when it did not consider whether to exclude the amount of [REDACTED] from the SSI income of \$ [REDACTED] when calculating the FAP net income.

DECISION AND ORDER

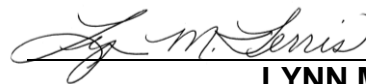
Accordingly, the Department's decision is

AFFIRMED IN PART with respect to the payment of the SSI quarterly supplement

and REVERSED IN PART with respect to the Department's determination of FAP eligibility and denial of the Claimant's FAP application.

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. The Department shall re-register the Claimant's application for FAP benefits and recalculate the and redetermine eligibility for FAP after it determines whether the SSI being withheld from Claimant's son's SSI benefits is due to overpayment. If it so determines that the amount is being so deducted the amount [REDACTED] shall not be included when calculating the FAP eligibility.
2. The Department shall issue a FAP supplement to the Claimant if any that the Claimant was otherwise entitled to receive in accordance with Department policy.



LYNN M. FERRIS

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

Date Signed: **6/5/2014**

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

LMF/tm

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 48909-07322

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