

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

**IN THE MATTER OF:**

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

Reg. No.: 14-003006  
Issue No.: 3006  
Case No.: ██████████  
Hearing Date: November 24, 2014  
County: OAKLAND-4

**ADMINISTRATIVE LAW JUDGE: Robert J. Chavez**

**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 November 24, 2014, from Detroit, Michigan. Participants on behalf of the Department included ██████████, Recoupment Specialist.

Participants on behalf of Respondent included ██████████.

**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 July 1, 2013 through November 30, 2013 due to client error.
3. The Department alleges that Respondent received a \$ ██████ FAP 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, Respondent argues that any OI was the result of agency error. After consideration, the undersigned finds agency error, after finding credible the Respondent's un rebutted testimony that the Department was supplied with all necessary information at the time it was due.

However, whether the error was the fault of the Department or the Respondent, recoupment must be pursued if the agency error is over \$250. BAM 705, pg 1 (2013). The Respondent did not allege in any way that the Department's recoupment calculation was in some way faulty. The Administrative Law Judge has reviewed the calculations and found no errors. Due to Respondent's income during the time, Respondent exceeded the gross income limit for the FAP program, meaning that there was little difference if the income in question was reported or not.


Therefore, as the evidence shows that the calculations were correct, and as there is no dispute as to the calculation methods, and as the recoupment amount is over the threshold for recoupment for agency error as provided in policy, the Administrative Law Judge holds that the Respondent received FAP benefits that they were not entitled to, and must repay the benefits through the recoupment process.

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

### **DECISION AND ORDER**

Accordingly, the Department is AFFIRMED.

The Department is ORDERED to initiate collection procedures for a [REDACTED] FAP OI in accordance with Department policy pertaining to agency error.

  
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**Robert J. Chavez**  
Administrative Law Judge  
for Nick Lyon, Interim Director  
Department of Human Services

Date Signed: **3/2/2015**  
Date Mailed: **3/2/2015**  
RJC / 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]  
[REDACTED]