

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

IN THE MATTER OF:

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████████████████████

Reg. No.: 14-010557
Issue No.: 3006
Case No.: ██████████
Hearing Date: February 09, 2015
County: MUSKEGON

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 February 9, 2015, from Detroit, Michigan. Participants on behalf of the Department included ██████████ ██████████ Recoupment Specialist.

Participants on behalf of Respondent included the Respondent.

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 November 2011 through December 30, 2011 (\$400) based upon client error and a second overissuance period for January 2012 through February 2012, due to Department's error (\$400).
3. The Department alleges that Respondent received an \$800 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.

When a client group receives more benefits than they are entitled to receive, the Department must attempt to recoup the OI. BAM 700 (May 2014), p. 1. The amount of the OI is the benefit amount the group or provider actually received minus the amount the group was eligible to receive. BAM 705 (July 2014), p. 6.

An agency error is caused by incorrect actions (including delayed or no action) by the Department of Human Services (DHS) staff or department processes. BAM 705, p. 1. Some examples are:

- Available information was not used or was used incorrectly.
- Policy was misapplied.
- Action by local or central office staff was delayed.
- Computer errors occurred.
- Information was not shared between department divisions such as services staff.
- Data exchange reports were not acted upon timely (Wage Match, New Hires, BENDEX, etc.).

BAM 705, p. 1. If the Department is unable to identify the type of record, it is an agency error. BAM 705, p. 1.

In this case the Department sought recoupment and collection of an alleged overissuance of FAP benefits for the period January 2012 through February 2012 due to agency error. At the hearing the Department conceded that the Respondent advised the Department in a December 9, 2011 application that she was attending school and was not employed. Based upon this information the Department sought an overissuance when the Department neglected to use reported information and adjust the Respondent's FAP benefits accordingly. When the requirements for computing benefit overissuances due to client error the following policy is applied, the Department must:

To determine the first month of the overissuance period for changes reported timely and not acted on, Bridges allows time for:

- The full standard of promptness (SOP) for change processing, per BAM 220.
- The full negative action suspense period; see BAM 220, EFFECTIVE DATE OF CHANGE. BEM 705, (7/1/14) p.5

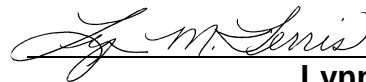
Applying this standard the Department was not entitled to recoup and include January 2012 benefits and thus the overissuance should have been \$200 and this being the case did not meet the \$250 threshold in effect at that time. BEM 705, (7/1/14) p. 2. The Department is only entitled to pursue overissuances which exceed the threshold and thus the request for overissuance must be denied and dismissed.

In July 2011 on a semi annual contact report the Claimant reported employment. Exhibit 1 p. 3. The Department sought an overissuance based upon Client error for the period November 1, 2011 through December 30, 2011 without explanation, as the Claimant reported that she was in school on her December 9, 2011 application. Thus in the month of December the Claimant was not eligible due to her student status and not being employed; however, the Claimant reported to the Department that she was in school and not working. The Department could not articulate the reason for its determination of client error for November and December 2011 and thus did not meet its burden of proof.

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that the Department **did not** establish a FAP benefit OI to Respondent totaling \$800.

DECISION AND ORDER

Accordingly, the Department is REVERSED.



Lynn M. Ferris
Administrative Law Judge
for Nick Lyon, Interim Director
Department of Human Services

Date Signed: **3/5/2015**

Date Mailed: **3/5/2015**

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