

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-010754
Issue No.: 3006
Case No.: [REDACTED]
Hearing Date: February 10, 2015
County: Montcalm

ADMINISTRATIVE LAW JUDGE: Kevin Scully

HEARING DECISION

Following Respondent'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, telephone hearing was held on February 10, 2015, from Lansing, Michigan. Participants on behalf of the Department of Human Services (Department) included [REDACTED], 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 (July 1, 2014), p 8.

ISSUE

Did the Department properly determine that the Respondent received an overissuance 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. The Respondent applied for Food Assistance Program (FAP) benefits on June 5, 2012.
2. The Respondent reported to the Department that three step-children would no longer be living in his household after August of 2012.
3. Due to agency error, the Department failed to remove the three step-children from his Food Assistance Program (FAP) benefit group when it determined his eligibility for benefits from October 1, 2012, through January 31, 2013.
4. From October 1, 2012, through January 31, 2013, the Respondent received Food Assistance Program (FAP) benefits totaling \$803, but would not have been eligible for any of these benefits if the Department has removed the children from his benefit group.

5. On August 15, 2014, the Department sent the Respondent a Notice of Overissuance (DHS-4358-A) to the Respondent at this last known address.
6. On August 28, 2014, the Department received the Respondent's request for a hearing challenging the overissuance of Food Assistance Program (FAP) benefits.

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.

When a client group receives more benefits than it is entitled to receive, the Department must attempt to recoup the overissuance. An agency error is caused by incorrect action (including delayed or no action) by Department staff or department processes. A client error occurs when the client received more benefits than they were entitled to because the client gave incorrect or incomplete information to the department. Client and agency errors are not pursued if the estimated amount is less than \$ [REDACTED] per program. Department of Human Services Bridges Administrative Manual (BAM) 700 (May 1, 2014), pp 1-9.

Overissuance balances on inactive cases must be repaid by lump-sum or monthly cash payments unless collection is suspended. Department of Human Services Bridges Administrative Manual (BAM) 725 (July 1, 2014), p 8.

The Respondent applied for Food Assistance Program (FAP) benefits on June 5, 2012, requesting benefits for his family and three step-children. The Respondent reported to the Department that the step-children would no longer be living in his household after August of 2012.

Due to agency error, the Department failed to remove the three step-children from his Food Assistance Program (FAP) benefit group when it determined his eligibility for continuing Food Assistance Program (FAP) benefits from October 1, 2012, through January 31, 2013. During this period, the Respondent received Food Assistance Program (FAP) benefits totaling \$ [REDACTED] but would not have been eligible to receive any of these benefits if the Department had removed the children from his benefit group as he had requested.

The Department presented substantial evidence establishing that the Respondent received Food Assistance Program (FAP) benefits that he was not eligible to receive as a result of the Department's failure to act on the Respondent's report that his benefit group size would be decreasing. The Department is required to recoup these benefits


as a debt because the Respondent's Food Assistance Program (FAP) benefits case has closed.

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 established an agency error overissuance of Food Assistance Program (FAP) benefits in the amount of \$ [REDACTED] for the period of October 1, 2012, through January 31, 2013.

DECISION AND ORDER

Accordingly, the Department is **AFFIRMED**.

The Department is **ORDERED** to initiate collection procedures for an \$ [REDACTED] OI in accordance with Department policy.



Kevin Scully
Administrative Law Judge
for Nick Lyon, Acting DHS Director
Department of Human Services

Date Signed: **2/24/2015**

Date Mailed: **2/24/2015**

KS/las

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 48909-8139

cc:

