

**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.: 14-011951
Issue No.: 3006
Case No.: ██████████
Hearing Date: March 23, 2015
County: BRANCH

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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 three-way telephone hearing was held on March 23, 2015, from Detroit, Michigan. Participants on behalf of the Department included ██████████, Recoupment Specialist. Participants on behalf of Respondent included Respondent, ██████████; and Claimant's interpreter/witness/son, ██████████.

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. On September 2, 2014, the Department sent Respondent a Notice of Overissuance (OI notice) informing him of a FAP overissuance (OI) for the period of June 1, 2012 to March 31, 2013 due to client error. See Exhibit 1, p. 6. The OI notice also indicated that the OI balance was ██████████ due to Respondent's earnings exceeding the simplified reporting requirements for April 2012, May 2012, June 2012, November 2012, February 2013, and March 2013. See Exhibit 1, p. 6.
3. On September 15, 2014, Respondent filed a hearing request, protesting the Department's action. See Exhibit 1, p. 1.

4. On September 15, 2014, DHS requested a debt collection hearing.

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 715 (July 2014), p. 6.

A client/CDC provider error OI occurs when the client received more benefits than they were entitled to because the client/CDC provider gave incorrect or incomplete information to the department. BAM 715, p. 1.

Food assistance groups with countable earnings are assigned to the simplified reporting (SR) category. BAM 200 (December 2011), p. 1.

Simplified reporting (SR) groups are required to report only when the group's actual gross monthly income (not converted) exceeds the SR income limit for their group size. BAM 200, p. 1. No other change reporting is required. BAM 200, p. 1. If the group has an increase in income, the group must determine their total gross income at the end of that month. BAM 200, p. 1. If the total gross income exceeds the group's SR income limit, the group must report this change to their specialist by the 10th day of the following month, or the next business day if the 10th day falls on a weekend or holiday. BAM 200, p. 1. Once assigned to SR, the group remains in SR throughout the current benefit period unless they report changes at their semi-annual contact or redetermination that make them ineligible for SR. BAM 200, p. 1.

The income limit is 130 percent of the poverty level based on group size. BAM 200, p. 1. To determine the group's SR income limit, all eligible members of the FAP group are counted. BAM 200, p. 1. Respondent's applicable group size in this case is eight for June 2012 and seven for November 2012, February 2013 and March 2013. See Exhibit 1, pp. 16-24. RFT 250 indicates that the simplified reporting income limit for a group size of seven is [REDACTED] and [REDACTED] for a group size of eight. RFT 250 (October 2011),

p. 1. It should be noted that the decrease in group size from eight to seven appeared to be the result of Respondent being disqualified from FAP benefits due to his Intentional Program Violation (IPV). See Exhibit 1, p. 35. Nevertheless, the Department budgets all earned and unearned income of a person disqualified for IPVs. See BEM 550 (February 2012), p. 2. Also, the group is still assigned to SR if the person with earned income is a disqualified member. BAM 200, p. 1. Disqualified members are not included in the group size when determining the income limit. BAM 200, p. 1. However, their budgetable income is included in the group's total gross income when comparing to the income limit. BAM 200, p. 1.

In this case, the Department alleges that Respondent who is a food assistance simplified reporter, failed to report his income exceeding the reporting limits, which caused an overissuance of FAP benefits.

First, the Department presented Respondent's redetermination dated March 23, 2012, to show that he acknowledged his responsibility to report changes as required. See Exhibit 1, pp. 57-60. Due to the redetermination, the Department sent Respondent a Notice of Case Action (case action) on March 28, 2012. See Exhibit 1, pp. 47-56. The case action informed Respondent he needs to report if his household's gross income exceeded the simplified reporting limit of [REDACTED]/month by the 10th day of the following month. See Exhibit 1, p. 49.

Second, the Department presented Respondent's semi-annual contact report (contact report) dated August 15, 2012, which he reported a decrease in earnings. See Exhibit 1, pp. 45-46. Again, another case action was sent to Respondent dated September 28, 2012, informing him the if his household's gross income exceeded the simplified reporting limit of [REDACTED]/month by the 10th day of the following month. See Exhibit 1, p. 33-44.

In summary, the Department testified that Respondent failed to report his increase in income to the Department and was overissued FAP benefits. It should be noted that Respondent also had a previous OI for the months of October 2011 and December 2011, but the Department indicated that the current case does not overlap with these time periods. See Exhibit 1, p. 1. As such, the evidence presented that the current alleged OI period is a separate case as compared to the OI for the months of October 2011 and December 2011. See Exhibit 1, pp. 4-5.

At the hearing, Respondent/witness argued that they always reported Respondent's gross earnings when requested by the Department. For example, on the contact report dated August 15, 2012, Respondent's witness testified that they would provide proof of Respondent's earnings. See Exhibit 1, p. 46. Furthermore, Respondent testified that he would attempt to contact the Department, but to no avail.

Based on the foregoing information and evidence, the Department did establish a FAP benefit OI to Respondent.

A client error is present in this situation because the evidence presented that Respondent failed to report that his group's income exceeded the SR income limit in accordance with Department policy. See BAM 200, pp. 1 and 5 and BAM 715, p. 1. If the total gross income exceeds the group's SR income limit, the group must report this change to their specialist by the 10th day of the following month, or the next business day if the 10th day falls on a weekend or holiday. BAM 200, p. 1. In this case, the total gross income exceeded the group's SR income limit for the benefit period of April 1, 2012; therefore, Respondent had to report this change by May 10th, 2012 (10th day of the following month). BAM 200, p. 1. However, the evidence indicated that Respondent did not report the gross income exceeding the SR income limits; instead, Respondent reported a decrease in earnings in the contact report dated August 15, 2012. As such, there is persuasive evidence that Respondent failed to report that his group's income exceeded the SR income limit by the 10th day of the following month. See BAM 200, pp. 1 and 5 and BAM 715, p. 1.

The only client error overissuances related to simplified reporting that can occur for FAP groups in SR are when the group fails to report that income exceeds the group's SR income limit, or the client voluntarily reports inaccurate information. BAM 200, p. 5. For failure to report income over the limit, the first month of the overissuance is two months after the actual monthly income exceeded the limit. BAM 200, p. 5. Groups report if their actual income for a month exceeds 130 percent of poverty level. BAM 200, p. 5.

Furthermore, the Department determines the first month of the overissuance as two months after the actual monthly income exceeded the simplified reporting (SR) limit. BAM 715, p. 5. This accounts for the 10 days to report by the client, the 10 days for the specialist to act on the change and the 12-day negative action period. BAM 715, p. 5.

If the income falls below the income limit any time during these two months and does not exceed the income limit again during the certification period, recoupment is not necessary. BAM 715, p. 5. If it does exceed the income limit again during the certification period and the client does not report, all months that exceeded the limit after the first two months would be recouped. BAM 715, p. 5.

Applying the above standard, the Department properly determined that the OI period began on June 1, 2012. See Exhibit 1, p. 6 and 25-29 and see BAM 715, pp. 4-5. Also, the Department properly determined that the OI included the benefit months of June 2012, November 2012, February 2013, and March 2013 as all these months exceeded the limit during the certification period and Respondent did not report it. See BAM 715, p. 5.

Furthermore, when a client group receives more benefits than they are entitled to receive, the Department must attempt to recoup the OI. BAM 700, 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 715, p. 6.

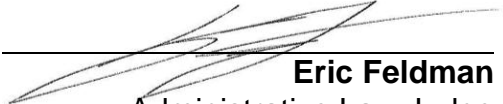
In this case, the Department presented OI budgets for June 2012, November 2012, February 2013, and March 2013. See Exhibit 1, pp. 16-24. The budgets included Respondent's income verification. See Exhibit 1, pp. 25-29. A review of the OI budgets found them to be fair and correct for June 2012, November 2012, and February 2013. See BAM 715, p. 5. However, the Department miscalculated the benefit month for March 2013. The OI budget indicated that Respondent was issued [REDACTED] for March 2013; instead, he was only issued [REDACTED]. See Exhibit 1, pp. 14 and 17-18. Nevertheless, this was harmless error by the Department as Respondent's income still exceeded the SR income limits for March 2013. The total OI amount will be reduced by [REDACTED] [REDACTED] of actual benefits issued for March 2013). Thus, the Department is entitled to recoup [REDACTED] minus [REDACTED] of FAP benefits for the time period of June 2012, November 2012, February 2013, and March 2013.

DECISION AND ORDER

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 [REDACTED]

Accordingly, the Department FAP is AFFIRMED.

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


Eric Feldman
Administrative Law Judge
for Nick Lyon, Interim Director
Department of Human Services

Date Signed: **3/24/2015**

Date Mailed: **3/24/2015**

EJF/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]