

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-012783
Issue No.: 3006
Case No.: [REDACTED]
Hearing Date: November 5, 2014
County: Bay

ADMINISTRATIVE LAW JUDGE: Vicki Armstrong

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, an in-person hearing was held on November 5, 2014, from Essexville, Michigan. Claimant, accompanied by her daughter, personally appeared and testified. Participants on behalf of the Department of Human Services (Department) included Assistance Payment Supervisor [REDACTED] and Recoupment Specialist [REDACTED].

ISSUE

Did the Department properly establish Claimant received an overissuance of Food Assistance Program (FAP) benefits that the Department is entitled to recoup?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On September 13, 2014, the Department sent Claimant a Notice via an automatic update, that Claimant's monthly FAP allotment had increased from \$ [REDACTED] to \$ [REDACTED] (\$ [REDACTED] - \$ [REDACTED] recoupment=\$ [REDACTED]).
2. On September 22, 2014, Claimant submitted a timely hearing request contesting the \$12.00 recoupment, claiming she had only been ordered to repay \$ [REDACTED] and she had repaid it.
3. On April 11, 2013, the Department sent Claimant a Notice of Overissuance, informing Claimant she owed the Department \$ [REDACTED] for a client error.
4. On April 12, 2013, the Department sent Claimant a Notice of Overissuance, informing Claimant she owed the Department \$ [REDACTED] for a Department error.

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).

As an initial matter, this was a contentious hearing, with Claimant interrupting on innumerable occasions, and refusing to follow the directions of the Administrative Law Judge, both on and off the record. In addition, Claimant wanted to dispute unidentified amounts and her daughter's employment being wrongfully included in determining Claimant's FAP allotment from prior years, and it was explained multiple times, that issue was not before this Administrative Law Judge. (See Reg#'s 2013-20003 dated 2/21/13; 2013-65707 dated 10/30/13; 2014-24075 dated 3/12/14; 2014-34181 dated 3/12/14; 2014-34181 dated 8/5/14).

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.

Departmental policy, BAM 725, Collection Actions, states that when the client group receives more benefits than entitled to receive, DHS must attempt to recoup the overissuance (OI). Repayment of an OI is the responsibility of anyone who was an eligible, disqualified, or other adult in the program group at the time the OI occurred. Bridges will collect from all adults who were a member of the case. OIs on active programs are repaid by lump sum cash payments, monthly cash payments (when court ordered), and administrative recoupment (benefit reduction). OI balances on inactive cases must be repaid by lump sum or monthly cash payments unless collection is suspended.

On September 13, 2014, the Department automatically mailed Claimant Notice that her FAP allotment had increased from \$ [REDACTED] to \$ [REDACTED] ($\$ [REDACTED] - \$ [REDACTED] = \$ [REDACTED]$). On September 22, 2014, Claimant submitted a request for a hearing contesting the \$ [REDACTED] recoupment that she did not owe, because she had only been ordered to pay back \$ [REDACTED].

A meaningful prehearing conference was scheduled for October 3, 2014. Claimant failed to appear. A second meaningful prehearing conference was offered on October 20, 2014. Claimant did attend this conference and insisted she did not owe any additional recoupment because she never received a court order from a judge indicating that she owes anything additional. During the hearing, Claimant did not contest the Department representative's testimony about the conference. Claimant also contends she never received the Notice of Overissuance for the \$ [REDACTED] dated April 12, 2013, and if she had received it, she would have requested an in-person hearing.

The Department did not have any information in Claimant's file indicating that the Notice of Overissuance for the \$ [REDACTED] dated April 12, 2013, was returned as undeliverable. The proper mailing and addressing of a letter creates a presumption of receipt. That presumption may be rebutted by evidence. *Stacey v Sankovich*, 19 Mich App 638 (1969); *Good v Detroit Automobile Inter-Insurance Exchange*, 67 Mich App 270 (1976). Claimant failed to provide

credible, material, and substantial evidence to rebut the presumption of receipt as the Department mailed all correspondence to Claimant's address of record.


Furthermore, the Department had no record of Claimant submitting a hearing request contesting the \$ [REDACTED] overissuance. As a result, Claimant forfeited her right to contest the \$ [REDACTED] overissuance by failing to file a timely hearing request within 90 days of the April 12, 2013, Notice of Overissuance, and she cannot now over a year and a half later, attempt to do an end run around the 90 day appeal requirement and have a hearing concerning the \$ [REDACTED] recoupment.

The Department explained that because Claimant did file a request for a hearing concerning the \$ [REDACTED] dollar recoupment, the \$ [REDACTED] recoupment was processed first, and once the \$ [REDACTED] recoupment was satisfied, then the Department began taking the recoupment for the \$ [REDACTED]. Currently, the \$ [REDACTED] recoupment has been paid in full as of November 1, 2013, and Claimant owes \$ [REDACTED] toward the \$ [REDACTED] recoupment.

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 properly deducted the \$ [REDACTED] from Claimant's FAP allotment.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.



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

Date Signed: **11/7/2014**

Date Mailed: **11/7/2014**

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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:

