

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-013303
Issue No.: 3006
Case No.: [REDACTED]
Hearing Date: March 23, 2015
County: KALAMAZOO

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, telephone hearing was held on March 23, 2015, from Detroit, Michigan. Participants on behalf of the Department included [REDACTED], Recoupment Specialist.

Participants on behalf of Respondent included the Respondent and a witness [REDACTED].

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 [REDACTED], through [REDACTED] due to Department's error.
3. The Department alleges Respondent received a FAP OI during the period [REDACTED], through [REDACTED], due to Respondent's error.
4. The Department alleged that Respondent received a \$350 (Department error) OI.

At the hearing the Department admitted that the Agency error overissuance was calculated in error, and therefore the Department could not prove its case and failed to meet its burden of proof.

5. The Department alleges that Respondent received a \$ 292 OI (Client error) that is still due and owing (Exhibit 1 p. 8 -9).
6. The Respondent requested a hearing on [REDACTED] protesting the Department's Debt Collection of the overissuance.

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, the Department alleges that the overissuance it seeks to recoup arises due to the Respondent's failure to report when their income exceeded the FAP simplified reporting limit. The FAP simplified reporting limit for a group of 4 is \$2,552. RFT 250, p. 1 (7/1/13).

When the client group or CDC provider receives more benefits than entitled to receive, DHS must attempt to recoup the overissuance. BAM 725, (7/1/14), pp.1: BAM 715 (July 1, 2014) p. 6.

An **overissuance** is the amount of benefits issued to the client group or CDC provider in excess of what it was eligible to receive. For FAP benefits, an overissuance is also the amount of benefits trafficked (traded or sold). BAM 715, p.7.

Overissuance type identifies the cause of an overissuance.

Recoupment is a DHS action to identify and recover a benefit overissuance. Bam 700 (May 1, 2014) p. 1

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. BAM 700, p. 15; BAM 715 p. 1. .

Client and Agency errors are not pursued if the estimated amount is less than \$250 per program. BAM 700, p. 9; BAM 715, p. 6.

The requirements applicable to computing the correct overissuance period for simplified reporting are found in BAM 200:

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. 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. Groups report if their actual income for a month exceeds 130 percent of poverty level. QC uses the actual income when determining whether a client should have reported; see BAM 200, (December 1, 2013) p. 5; BAM 715 (July 1, 2014 p. 5.

Example: The group's income for September exceeded the SR income limit. The group should have reported this by October 10th. The decrease would have been effective in November. November is the first month of the overissuance. BAM 200 p. 4-5.

In this case the Respondent's income first exceeded the simplified reporting limit in October 2013 and the Respondent had until November 10, 2013 to report the change which would have affected the December 2013 FAP benefit issuance and January 2014 FAP issuance. Based upon the policy in BAM 200 and BAM 715 the Department correctly determined the overissuance period. The Department presented budgets for December 2013 and January 2014 which were reviewed at the hearing and the gross income amounts were confirmed by the Respondent. Exhibit 1, pages 11-20. Also due to the late reporting the overissuance client error calculation did not include the 20% earned income deduction. BAM 715, p.9.

In computing the overissuance the Department is required to compute the monthly income if improper reporting or budgeting of income caused the overissuance, use actual income for that income source. Bridges converts all income to a monthly amount. BAM 715, p.8.

Based upon this review and the evidence and testimony presented, it is determined that the Department established that it is entitled to recoup the \$292 overissuance amount.

Lastly as the Department conceded during the hearing that its budget regarding the OI in the amount of \$350 due to Department error is incorrect the Department has not met its burden of proof to establish its entitlement to this overissuance amount due to Department error.

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 \$292.

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 in the amount of \$350 due to Department Error.

DECISION AND ORDER

Accordingly, the Department is AFFIRMED.

The Department is ORDERED to initiate collection procedures for a \$292 OI in accordance with Department policy.

The Department's request for an OI and recoupment in the amount of \$350 due to Department error is hereby DISMISSED.



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

Date Signed: **4/17/2015**

Date Mailed: **4/17/2015**

LMF / hw

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:

