

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

IN THE MATTER OF:

██████████
██████████
██████████

Reg. No.: 14-013896
Issue No.: 3006
Case No.: ██████████
Hearing Date: June 1, 2015
County: WAYNE-DISTRICT 57
(CONNER)

ADMINISTRATIVE LAW JUDGE: Eric Feldman

HEARING DECISION

Upon the request for a hearing by the Department of Health and Human Services (Department or DHHS), this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9, and in accordance with Titles 7, 42 and 45 of the Code of Federal Regulation (CFR), particularly 7 CFR 273.16 and 45 CFR 235.110; and with Mich Admin Code, R 400.3130 and 400.3178. After due notice, a three-way telephone hearing was held on June 1, 2015, from Detroit, Michigan. The Department was represented by ██████████, 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 Health and Human Services Bridges Administrative Manual (BAM) 725 (July 2014), pp. 1-17.

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 24, 2014, the Department sent Respondent a Notice of Overissuance (OI notice) informing her of a FAP overissuance (OI) for the period of June 1, 2012 to August 31, 2012, due to client error. See Exhibit A, p. 2. The OI notice also indicated that the OI balance was ██████████ due to Respondent's earnings exceeding the simplified reporting requirements. See Exhibit A, p. 2.

3. On October 6, 2014, Respondent filed a hearing request, protesting the Department's action. See Exhibit A, p. 59.
4. On October 13, 2014, DHHS requested a debt collection hearing.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), and Department of Health and Human Services Reference Tables Manual (RFT).

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food and Nutrition Act of 2008, 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 Department of Human Services) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001 to .3015.

Procedural history

On February 25, 2015, the Michigan Administrative Hearing System (MAHS) sent both parties a Notice of Debt Collection Hearing, which scheduled the hearing for March 23, 2015.

On March 23, 2015, both parties failed to appear for the hearing, which resulted in the Administrative Law Judge (ALJ) issuing an Order of Dismissal for Failure to Appear on April 1, 2015.

On or around March 31, 2015, Respondent submitted a request to vacate the dismissal order.

On April 15, 2015, the ALJ – Manager issued an Order Vacating the Dismissal and Order to Schedule Matter for Hearing.

On May 11, 2015, MAHS sent both parties a Notice of Debt Collection Hearing, which rescheduled the hearing for June 1, 2015.

On June 1, 2015, the Recoupment Specialist appeared for the debt collection hearing; however, Respondent failed to appear. This ALJ attempted to contact the Respondent in order for her to participate in the hearing, but to no avail. As such, the debt collection hearing proceeded without the presence of the Respondent.

FAP overissuance

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 one. RFT 250 indicates that the simplified reporting income limit for a group size of one is \$1,180. RFT 250 (October 2011), p. 1.

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

First, the Department presented Respondent's application dated March 15, 2012, to show that she acknowledged her responsibility to report changes as required. See Exhibit A, pp. 32-57.

Second, the Department alleged that Respondent's income exceeded the reporting limits based on two different employments. The Department presented Wage Match Client Notices dated February 28, 2013, which were generated when the Respondent received income from the employers that were not reported. See Exhibit A, pp. 29-31.

Third, the Department presented Respondent's employment verifications regarding both of her employers. See Exhibit A, pp. 16-25.

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 her income exceeded the SR income limit in accordance with Department policy. See BAM 200, pp. 1 and 5 and BAM 715, p. 1. In this case, the total gross income exceeded the Respondent's SR income limit for the benefit period of June 2012 to August 2012. See BAM 200, p. 1.

Additionally, 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 A, pp. 2 and 16-25 and see BAM 715, pp. 4-5.

Finally, the Department presented OI budgets for June 2012 to August 2012. See Exhibit A, pp. 9-15. The budgets included Respondent's income verifications from both employers. See Exhibit A, pp. 16-25. A review of the OI budgets found them to be fair and correct. Thus, the Department is entitled to recoup █████ of FAP benefits for the time period of June 1, 2012 to August 31, 2012.

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 █████

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, Director
Department of Health and Human Services

Date Signed: **6/2/2015**

Date Mailed: **6/2/2015**

EJF/tm

NOTICE OF APPEAL: The law provides that within 30 days of receipt of the above Hearing Decision, the Respondent may appeal it to the circuit court for the county in which he/she lives or the circuit court in Ingham County. A copy of the claim or application for appeal must be filed with the Michigan Administrative Hearing System (MAHS).

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:

[REDACTED]