

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-015528
Issue No.: 3006
Case No.: [REDACTED]
Hearing Date: December 11, 2014
County: Genesee (6) (Clio Rd)

ADMINISTRATIVE LAW JUDGE: Darryl Johnson

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 December 11, 2014, from Lansing, Michigan. Participants on behalf of the Department included Recoupment Specialist [REDACTED].

Participants on behalf of Respondent included Respondent.

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 July 1, 2012, through July 31, 2012, due to Respondent's error.
3. The Department alleges that Respondent received a \$ [REDACTED] OI that is still due and owing to the Department.

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.

Respondent graduated from [REDACTED] in [REDACTED] and hoped to go on for a degree at the [REDACTED] – [REDACTED] in the fall of [REDACTED]. He applied for FAP on July 6, 2012, and was awarded benefits. At the time, he was living with his mother. They did not purchase or prepare food together. A Front End Eligibility (FEE) investigation was conducted. The Department concluded Claimant was not entitled to FAP, and his FAP was closed as of September 1, 2012. On November 3, 2014, the Department filed a hearing request asking for recoupment of the benefits he received in July 2012.

The policy governing student status is found in BEM 245. At the time in question, the edition dated 10/01/11 was in effect. As stated at page 1, to receive FAP, “A person enrolled in a post-secondary education program may be in student status, as defined in this item. A person in student status must meet certain criteria in order to be eligible for assistance.” “Student Status is found on pages 2 and 3:

STUDENT STATUS

RAPC and RAPM Only

A full-time student in post-secondary education is not eligible for RAPC or RAPM. The school determines full-time enrollment and attendance.

FAP Only

A person is in student status if he is:

- Age 18 through 49 and
- Enrolled half-time or more in a:
 - Vocational, trade, business, or technical school that normally requires a high school diploma or an equivalency certificate.
 - Regular curriculum at a college or university that offers degree programs regardless of whether a diploma is required.

In order for a person in student status to be eligible, they must meet one of the following criteria:

- Receiving FIP.
- Enrolled in an institution of higher education as a result of participation in:
 - A JTPA program.
 - A program under section 236 of the Trade Readjustment Act of 1974 (U. S. C. 2296).
 - Another State or local government employment and training program.
- Physically or mentally unfit for employment.
- Employed for at least 20 hours per week and paid for such employment.
- Self-employed for at least 20 hours per week and earning weekly income at least equivalent to the federal minimum wage multiplied by 20 hours.
- Participating in an on-the-job training program. A person is considered to be participating in an on-the-job training program only during the period of time the person is being trained by the employer.
- Participating in a state or federally-funded work study program (funded in full or in part under Title IV-C of the Higher Education Act of 1965, as amended) during the regular school year.

The Department concluded Respondent was in student status and did not meet any of the criteria to be eligible to receive FAP. It relied upon the paragraph at page 4 which states: "The person remains in student status while attending classes regularly. Student status continues during official school vacations and periods of extended illness. Student status does not continue if the student is suspended or does not intend to register for the next school term (excluding summer term)."

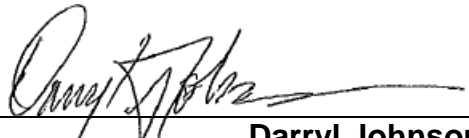
Respondent testified persuasively that he had graduated from [REDACTED], and planned to enroll in classes at [REDACTED] for the fall. He was no longer a student at [REDACTED], but he was not yet a student at [REDACTED]. He was not on a school vacation. He was not in a period of extended illness. Therefore, the undersigned is not persuaded that he maintained his student status during the summer of 2012. Consequently, he was eligible to receive the benefits that were provided.

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 to Respondent.

DECISION AND ORDER

Accordingly, the Department is **REVERSED**.

The Department is ORDERED to cease any collection procedures.


Darryl Johnson
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: **12/12/2014**

Date Mailed: **12/12/2014**

DJ/jaf

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:

