

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-017328
Issue No.: FOOD ASSISTANCE PROGRAM
Case No.: [REDACTED]
Hearing Date: May 13, 2015
County: MUSKEGON

ADMINISTRATIVE LAW JUDGE: Susanne E. Harris

HEARING DECISION

Upon the request for a hearing by the Department of Health and Human Services (Department), 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, an in-person hearing was held on May 13, 2015, from Muskegon Heights, Michigan. The Department was represented by Family Independence Manager, [REDACTED]. Participants on behalf of the Respondent included the Respondent, [REDACTED].

ISSUE

Did Respondent receive an OI of the Food Assistance Program (FAP) that the Department is entitled to recoup/collect?

FINDINGS OF FACT

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

1. The Respondent was a recipient of FAP benefits from the Department.
2. The Department alleges the Respondent received a FAP OI [REDACTED] during the period of March 1, 2012 to December 31 of 2012, due to the Department's error. This OI was reduced from the original amount of [REDACTED]
3. The Department alleges that the 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 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.

Bridges Administrative Manuals (BAM) 705 (2011) p. 1, provides that when Department did not use, or incorrectly used available information that results in an OI, it constitutes an agency error OI. It is not contested that this is what occurred in the Claimant's case. The Claimant protested that she is now required to repay the OI when it is not her fault and she is virtually destitute and homeless. BAM 700 (2011) p. 1, provides that when a Claimant receives more benefits than they are entitled to, the Department must attempt to recoup the OI. This is regardless of whether it is an agency or a client error. BAM 700 p. 7, provides that OIs are not pursued if the amount is less than [REDACTED]

In this case, the Recoupment Specialist who calculated the OI was not present at the hearing. The Department's FIM testified that the Claimant's case is further complicated by the Bridges computer system. According to the testimony, the Bridges computer system will not permit a proper calculation of the OI regarding a medical expense. Apparently, when the Department attempts to remove an inappropriate medical expense from the Claimant's budget, the computer automatically adds it back in. According to the FIM's testimony, the Recoupment Specialist did therefore have to tinker with the Claimant's amount of income to compensate for the computer errors. Therefore, the Department could not test any certainty as to the figures in the OI budgets. Furthermore, the Claimant testified that during the month of the alleged OI, she had expenses that she was not afforded in her FAP budget. The written OI budgets do not include a telephone expense the Claimant asserts she had.

During the hearing the Claimant expressed that she was very concerned that the Bridges computer system was continuing to afford her a medical expense that she does not incur. The Claimant asserted that she believes she is continuing to receive an OI of the FAP. BAM 700 (2011) p. 7, instructs the Department to take immediate action to correct current benefits upon the discovery of a potential OI. The Claimant inquired as to what else she could do to correct any continuing OI. During the hearing, the Department testified that the Claimant was not currently receiving an OI. Lastly, the Claimant requested that the Administrative Law Judge waived any potential OI that may exist. The Claimant was informed that this Administrative Law Judge does not have jurisdiction to waive any potential OI in her case, but that the Administrative Law Judge would research if such an avenue of redress existed for the Claimant and then memorialize it in this decision. The Administrative Law Judge concludes that the

evidence in this case is far from sufficient to establish that the Respondent received an OI that the Department is now entitled to recoup/collect.

Additionally, BAM 725 (2011) p. 14, provides that DHS can compromise (reduce or eliminate) an OI if it is determined that a household's **economic** circumstances are such that the OI cannot be paid within three years. A request for a policy exception must be made from the RS to the program office outlining the facts of the situation and the client's **financial** hardship.

Send to:
Food Assistance Policy Office
Suite 1301
235 S. Grand Ave
P.O. Box 30037
Lansing, MI 48909

Furthermore, clients have the right to make general complaints about matters other than the right to apply, nondiscrimination or hearing issues. Written complaints can be sent to:

Michigan Department of Human Services Specialized Action Center
235 S. Grand Avenue PO Box 30037
Lansing, MI 48909

That office also responds to complaints via telephone: 517-373-0707.

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 the Respondent.

DECISION AND ORDER

Accordingly, the Department is **NOT UPHELD**.



Susanne E. Harris
Administrative Law Judge
For Nick Lyon, Director
Department of Health and Human Services

Date Signed: **5/18/2015**

Date Mailed: **5/18/2015**

SEH/sw

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:

