

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-017893
Issue No.: 3006
Case No.: [REDACTED]
Hearing Date: April 23, 2015
County: Calhoun

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; and Mich Admin Code, R 792.11002. After due notice, an in-person hearing was held on April 23, 2015, in Battle Creek, Michigan. Participants on behalf of Claimant included Attorney [REDACTED]. Participants on behalf of the Department of Health and Human Services (Department) included Recoupment Specialist [REDACTED].

ISSUE

Did the Department properly find Respondent received an overissuance of \$3,173.87 in 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 receiving FAP benefits at all times pertinent to this hearing. (Hearing Summary)
2. Respondent notified her case manager once her children were approved for RSDI benefits and was told she was still eligible to receive FAP benefits.
3. Respondent received \$ [REDACTED] in FAP benefits during the time period of August, 2009, through February, 2010. If the children's RSDI income had been properly budgeted by the Department, Respondent would have only been eligible to receive \$ [REDACTED] in FAP benefits.
4. The Department failed to verify or properly budget Respondent's children's RSDI income, resulting in a FAP overissuance of \$ [REDACTED] during the time period of August, 2009, through February, 2010.

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), Department of Health and Human Services Reference Tables Manual (RFT), and Department of Health and Human Services Emergency Relief Manual (ERM).

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-.3011.

In this case, Respondent does not dispute that she received the FAP benefits at issue. Respondent credibly testified that she did telephone her case worker to inform him when her children were awarded RSDI, but before they began receiving it, and was told that the RSDI would not affect her FAP benefits.

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. BAM 725, p 1 (7/1/2014). Repayment of an overissuance is the responsibility of anyone who was an eligible, disqualified, or other adult in the program group at the time the overissuance occurred. BAM 725, p 1. Bridges will collect from all adults who were a member of the case. BAM 725, p 1. Overissuances on active programs are repaid by lump sum cash payments, monthly cash payments (when court ordered), and administrative recoupment (benefit reduction). BAM 725, p 3. Overissuance balances on inactive cases must be repaid by lump sum or monthly cash payments unless collection is suspended. BAM 725, p 3.

A Department error is caused by incorrect action (including delayed or no action) by DHS staff or department processes. Some examples are:

- Available information was not used or was used incorrectly.
- Policy was misapplied.
- Action by local or central office staff was delayed.
- Computer errors occurred.
- Information was not shared between department divisions such as services staff.
- Data exchange reports were not acted upon timely (wage match, new hires, BENDEX, etc.). BAM 700, p 4 (5/1/2014).

In this case, this Administrative Law Judge finds that Respondent reported her children's RSDI income and that the Department did not follow their own policies in verifying and including the income. Because the Department failed to use the available information, Respondent's children's RSDI income was not budgeted and Respondent received an overissuance of FAP benefits.

Respondent stated that she was unable to repay the overissuance due to financial issues. That issue is not before this tribunal.

The Department can compromise (reduce or eliminate) an overissuance if it is determined that a household's **economic** circumstances are such that the overissuance cannot be paid within three years. BAM 725, p 16 (71/2014). A request for a policy exception must be made from the Recoupment Specialist to the Fraud and Recoupment Administration office outlining the facts of the situation and the client's **financial** hardship. The Deputy Director of the Department's Fraud and Recoupment Administration has final authorization on the determination for all compromised claims.

Send to: Fraud and Recoupment Administration
Suite 710
235 S. Grand Ave
P.O. Box 30037
Lansing, MI 48909

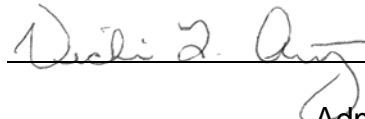
This Administrative Law Judge finds that the evidence presented by the Department shows that Respondent received more benefits than she was entitled to receive. Therefore, Respondent is responsible for repayment of the overissuance.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that Respondent received an overissuance of FAP benefits for the time period of August, 2009, through February, 2010, that the Department is entitled to recoup.

The Department is therefore entitled to recoup the FAP overissuance of \$ [REDACTED] from Respondent.

It is **SO ORDERED**.



Vicki Armstrong
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **5/4/2015**

Date Mailed: **5/4/2015**

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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 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 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:

