

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-018866
Issue No.: 3008
Case No.: [REDACTED]
Hearing Date: January 29, 2015
County: Ottawa

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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 After due notice, telephone hearing was held on January 29, 2015, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED].

ISSUE

Did the Department properly determine that the Claimant received an overissuance of Food Assistance Program (FAP) benefits due to the Department's error and that the Department is required to recoup?

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 Claimant was an ongoing Food Assistance Program (FAP) recipient from January 1, 2014, through December 31, 2014.
2. On March 1, 2010, the Department received the Claimant's notification of a change to her Retirement, Survivors, and Disability Insurance (RSDI) income.
3. The Claimant was approved for Medicare Savings Program (MSP) benefits effective April 1, 2010.
4. On January 28, 2013, the Department received the Claimant's notification of a change to her Retirement, Survivors, and Disability Insurance (RSDI) income and a monthly medical expenses to Blue Cross & Blue Shield in the monthly amount of \$ [REDACTED].
5. On February 21, 2014, the Claimant provided the Department with notification of a monthly shelter expense of \$ [REDACTED].

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

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.

An agency error is caused by incorrect actions (including delayed or no action) by the Department of Human Services (Department) staff or Department processes. The Department is required to recoup an overissuance of benefits caused by agency error. Department of Human Services Bridges Administrative Manual (BAM) 705 (July 1, 2014), pp 1-12.

The Claimant was an ongoing Food Assistance Program (FAP) recipient from January 1, 2014, through December 31, 2014.

On March 1, 2010, the Claimant reported to the Department that she was receiving Retirement, Survivors, and Disability Insurance (RSDI) benefits. The Department used this information along with an expense for Medicare Part B premiums to determine her monthly allotment of Food Assistance Program (FAP) benefits. The Claimant was approved for Medicare Savings Program (MSP) effective April 1, 2014.

The Department's representative testified that due to Department error, the Department failed to remove the expenses for Medicare Part B premiums from its determination of the Claimant's eligibility for the Food Assistance Program (FAP). The Department alleges that the Claimant received more benefits than she was eligible for as a result of the Department's error.

On January 28, 2013, the Department received a Mid-Certification Contact Notice (DHS-2240-A) signed by the Claimant. This form includes a report of a medical expense in the monthly amount of \$ [REDACTED] to Blue Cross & Blue Shield.

Once eligible for the Medicare Savings Plan (MSP), the Claimant is no longer eligible to have her Medicare Part B premiums deducted from income and applied to her Food Assistance Program (FAP) eligibility. The Claimant would remain eligible to have ongoing medical expenses applied to her Food Assistance Program (FAP) eligibility and this includes payments to Blue Cross & Blue Shield.

The Department is correct that if the Claimant received a deduction for Medicare Part B premiums then she has received more Food Assistance Program (FAP) benefits than she was eligible for.

However, this Administrative Law Judge finds that the Department has failed to establish that the medical expenses used in the determination of the Claimant's eligibility for Food Assistance Program (FAP) benefits from January 1, 2014, through December 31, 2014, were not based on an ongoing expense for Blue Cross and Blue Shield premiums.

It should be noted that the expenses to Blue Cross & Blue Shield on January 28, 2013, are substantially similar to the cost associated with the Claimant's Medicare Part B premium.


The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it determined that the Claimant received an overissuance of Food Assistance Program (FAP) benefits from January 1, 2014, through December 31, 2014.

DECISION AND ORDER

Accordingly, the Department's decision is **REVERSED**.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. The Department is ORDERED to delete the Food Assistance Program (FAP) overissuance and cease any recoupment action.



Kevin Scully
Administrative Law Judge
for Nick Lyon, Acting DHS Director
Department of Human Services

Date Signed: **2/4/2015**

Date Mailed: **2/4/2015**

KS/las

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:

