

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

IN THE MATTER OF:

██████████
████████████████████
████████████████████

Reg. No.: 201424739
Issue No(s): 3006
Case No.: ██████████
Hearing Date: June 16, 2014
County: Berrien (22)

ADMINISTRATIVE LAW JUDGE: Robert J. Chavez

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 telephone hearing was held on June 16, 2014, from Detroit, Michigan. Participants on behalf of the Department included ██████████, RS.

Participants on behalf of Respondent included ██████████

ISSUE

Did Respondent receive an OI of

Family Independence Program (FIP)

State Disability Assistance (SDA)

Food Assistance Program (FAP)

Child Development and Care (CDC)

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 FIP FAP SDA CDC benefits from the Department.

2. The Department alleges Respondent received a
 FIP FAP SDA CDC
OI during the period May 1, 2013, through October 31, 2013 due to
 Department's error 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.

The circumstances that led to the alleged overissuance in the current case are undisputed. In, April, 2013, respondent informed the Department that she would most likely move at the end of the month. In May, 2013, respondent began a move to Florida. In June, 2013, after completing the move, respondent contacted DHS in writing and informed them of the move to Florida. Respondent contacted the Florida Department of Children and Families (DCF) with regard to establishing food stamps in that state; however, respondent was informed that no food stamps could be established in Florida without first stopping Michigan benefits, due to federal prohibitions on concurrent receipt of benefits.

Respondent then proceeded to contact DHS repeatedly over the next 4 months, both in writing and by phone, in an attempt to get her food stamp benefits stopped. The Department never complied with respondent's request. Respondent was never able to get a hold of her caseworker, nor a supervisor.

Finally, in October, 2013, DHS acknowledged respondent's attempts to have her Michigan food stamp benefits stopped, and respondent's Michigan benefits ended as of October 31, 2013. Following the termination of Michigan FAP benefits, respondent established receipt of food stamp benefits in Florida.

On January 21, 2014, DHS initiated recoupment procedures against the respondent, alleging that respondent had received [REDACTED] in FAP benefits that she was not entitled to.

While the Department admitted that the recoupment was the result of an agency error, the Department did not acknowledge during the recoupment process that, due to this agency error, respondent had been effectively denied food stamps from the Florida DCF.

Furthermore, the Department did not acknowledge that, had respondent pursued benefits from Florida, respondent would have been guilty of receipt of concurrent benefits, an offense that would disqualify respondent for 10 years from the national food stamp program, and open respondent to criminal prosecution. BAM 720, pg 16.

The Department now alleges that, even though respondent notified the Department, both timely and repeatedly of her relocation, and; even though respondent was legally prohibited during the time period of the Department error from establishing food stamps in Florida, and; even though the respondent needed the food stamp benefits for simple survival for herself and her child, and to prevent negligence allegations against herself for failing to feed her child, and; even though there is no mechanism in state or federal law for applying for food stamps retroactively to get food stamps one would have been otherwise entitled to; respondent nevertheless owes the Department a debt for the period of time she was a resident of the State of Florida.

The Administrative Law Judge disagrees, and holds that respondent owes no debt to the Michigan Department of Human Services.

BAM 700, pg. 1, defines an overissuance as a situation where a client group “receives more benefits than it is entitled to receive”.

Therefore, the legal question presented here must first establish whether or not the respondent received more FAP benefits than she was entitled to receive.

If the food stamp benefits were in fact, a state program, administered and funded by the state in question, the undersigned would have to answer that question in the affirmative.

However, the Food Assistance Program is established by the Federal Food Stamp Act of 1977, and implemented by federal regulations. 7 USC 2011 to 2036a; 7 CFR 273. While individual states may administer the program, all funds, guidelines, eligibility standards and the like are administered under the Supplemental Nutrition Assistance Program, which is overseen by the USDA and the Food and Nutrition Service (FNS). While administrative costs of the program are shared by the state and federal governments, food stamps themselves are issued by the federal government and constitute instruments and obligations of the United States that are redeemable by the United States Treasury. 7 USC 2013, Sec. 4; 7 USC 2025, Sec 16; 7 CFR 277.1-277.18; 7 CFR 271.5 (a).

In other words, food stamps benefits are obligations (similar to other forms of currency) issued by the federal government through the administrative program run by the state in question. The cost to the State itself consists of a portion of the administrative costs of

the program. The State does not bear the cost of the food stamps themselves, as food stamps are a type of currency issued by the United States federal government.

This is supported by a quick scan of the food stamp eligibility guidelines from DCF; had respondent been able to apply for benefits from Florida, respondent would have been under the same eligibility guidelines, with the same potential FAP maximums.

See, *Food Assistance Program Fact Sheet*, available at <http://www.dcf.state.fl.us/programs/access/docs/fafactsheet.pdf>.

Therefore, it follows that, as respondent would have been eligible for the exact same amount of food stamp benefits in Florida, and as these benefits are instruments and obligations of the United States government and issued by the same, any benefits respondent received during this time would have come from the federal government, not the State of Michigan, regardless of where she was living.

Furthermore, there is no policy that supports recoupment of administrative costs.

As such, the Administrative Law Judge must conclude that in order to justify recoupment of food stamp benefits, there must be a showing that a respondent received more benefits than they were entitled to receive; a showing of a change of residency is not enough to satisfy this requirement. Because food stamps are instruments and obligations of the United States government, not the State of Michigan, in order to recoup these obligations, it must be established that a respondent received more of these instruments than they were entitled to receive regardless of residency. Residency itself is irrelevant to this determination, and cannot be considered.

In other words, as food stamps are a United States Treasury instrument, any debt must be established as owing to the United States Treasury, not as owing to the State of Michigan, which merely distributes this instrument.

Had the Department presented evidence that respondent's income in Florida was higher, or their shelter obligation was lower, in such a manner as to show that the food stamp budget would have been affected negatively by the change in residency, the Administrative Law Judge would hold that a debt was owed with regards to Food Stamp benefits in the amount of difference between the two budgets.

However, no such evidence has been presented.

Therefore, the undersigned holds that the Department has failed to provide satisfactory evidence showing that respondent received more FAP benefits than they were entitled to. As the Department has failed to show that respondent received more FAP benefits than they were entitled to, the Administrative Law Judge holds that there is no overissuance, and any request for recoupment is inappropriate, and is therefore denied.

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that the Department did did not

establish a FIP FAP SDA CDC benefit OI to Respondent totaling \$ [REDACTED]

DECISION AND ORDER

Accordingly, the Department is

REVERSED.



Robert J. Chavez
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: August 15, 2014

Date Mailed: August 15, 2014

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides or has its principal place of business in the State, 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

2014-24739/RJC

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

RJC/tm

cc:

[REDACTED]
[REDACTED]
[REDACTED]
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