

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-334
Issue No(s): 3006
Case No.: [REDACTED]
Hearing Date: March 13, 2014
County: Kent County DHS

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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 March 13, 2014, from Lansing, Michigan. Participants on behalf of the Department included [REDACTED] [REDACTED] Recoupment Specialist.

Participants on behalf of Respondent included [REDACTED] [REDACTED] the 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 February 2010, through March 2010, due to Respondent's error.
3. The Department alleges Respondent received a FAP OI during the period April 2010, through January 2012, due to Department's error.
4. The Department alleges that Respondent received a \$ [REDACTED] OI due to Respondent's error and a \$ [REDACTED] OI due to Department's error that are 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 271.1 to 285.5. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10 and Mich Admin Code, R 400.3001 to .3015.

When a client group receives more benefits than it is entitled to receive, DHS must attempt to recoup the overissuance (OI). BAM 700, p 1 (7-1-2013). An overissuance (OI) is the amount of benefits issued to the client group or CDC provider in excess of what it was eligible to receive. For FAP benefits, an OI is also the amount of benefits trafficked (traded or sold). BAM 700, p 1 (7-1-2013).

An agency error OI is caused by incorrect action (including delayed or no action) by DHS staff or DIT staff or department processes. BAM 700, p 4 (7-1-2013). If unable to identify the type of OI, the Department records it as an agency error. BAM 700, p 4 (7-1-2013).

A client error OI occurs when the client received more benefits than they were entitled to because the client gave incorrect or incomplete information to the department. BAM 700, p 6 (7-1-2013).

A Claimant must report changes in circumstance that potentially affect eligibility or benefit amount. Changes must be reported within 10 days of receiving the first payment reflecting the change. BAM 105, p.7 (1/1/2010).

Client and Agency error OIs are not pursued if the estimated OI amount is less than \$250 per program. BAM 700, p 9 (7-1-2013).

Here, the Department contends that Respondent received an OI of FAP benefits due to Respondent's error for the months of February 2010 and March 2010, and due to the Department's error for the period of April 2010 through January 2012.

The Department asserts that Respondent did not timely report when he began employment with Gill Staffing. Gill Staffing provided verification that Respondent's employment began on December 22, 2009 and received his first paycheck December 30, 2009. (Exhibit A, pages 44 and 46) Respondent did not report this income to the Department until the February 2010 Redetermination, resulting in the Respondent error FAP benefit OI of \$ [REDACTED] for the months of February and March 2010.

The Department further asserts that the Department failed to timely and properly re-determine Respondent's FAP eligibility after Respondent reported income changes on Redetermination forms in February 2010, February 2011 and January 2012. The

Department's failure to timely re-determine the Respondent's eligibility when employment earnings were reported resulted in the Department error FAP benefits OI of \$ [REDACTED]

Respondent testified this was the first time he received FAP and he reported his everything to the Department.

Pursuant to BAM 700, recoupment is pursued for OIs greater than \$250, even when it was the Department's error that caused the OI.

This Administrative Law Judge has carefully considered and weighed the testimony and other evidence in the record. As noted above, it is not disputed that Respondent reported his employment changes to the Department on Redetermination forms in February 2010, February 2011 and January 2012. (Exhibit A, pages 18-21, 24-30, and 34-37) However, the Gill Staffing verifications show that employment began on December 22, 2009 and the first paycheck was December 30, 2009. (Exhibit A, pages 44 and 46) BAM 105 policy required Respondent to report this change within 10 days of receiving the first payment reflecting the change. There is no evidence establishing this income change was reported prior to the February 12, 2010 Redetermination form. Accordingly, the Respondent's failure to timely report the income change resulted in the Respondent error FAP benefit OI of \$ [REDACTED] for the months of February and March 2010. Further, the Department's failure to include the income changes reported from February 2010 forward resulted in the Department error FAP benefits OI of \$ [REDACTED] during the period of April 2010 through January 2012. When the income from the Respondent's employment was included in the FAP budgets, the difference between the benefit amounts the Respondent received and the benefit amounts the Respondent was entitled to receive totals \$ [REDACTED]

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that the Department did establish FAP benefit OIs to Respondent totaling \$ [REDACTED]

DECISION AND ORDER

Accordingly, the Department is **AFFIRMED**.

The Department is ORDERED to initiate collection procedures for \$ [REDACTED] OIs in accordance with Department policy.



Colleen Lack
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: March 24, 2014

Date Mailed: March 24, 2014

NOTICE OF APPEAL: The claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely Request for Rehearing or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

Michigan Administrative Hearing System (MAHS) may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. MAHS will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request (60 days for FAP cases).

A Request for Rehearing or Reconsideration may be granted 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 Department, AHR or the claimant 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 the hearing decision is mailed.

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

CL/hj

cc:

