

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

**IN THE MATTER OF:**



Reg. No.: 14-017756  
Issue No.: 3008  
Case No.: [REDACTED]  
Hearing Date: January 14, 2015  
County: GENESEE-DISTRICT 6 (CLIO R

**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 14, 2014, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED].

**ISSUE**

Did Claimant receive an overissuance of program benefits that the Department is entitled 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. Claimant received benefits for:
  - Food Assistance Program (FAP).
2. The Department determined that Claimant received a
  - FAP overissuance in the amount of \$1,890 during the period of November 1, 2013, through August 31, 2014.
3. The overissuance was due to  client error.
4. On November 5, 2014, the Department sent notice of the overissuance and a repayment agreement to Claimant/Claimant's Authorized Representative (AR).

5. On November 26, 2014, Claimant/Claimant's Authorized Hearing Representative (AHR) filed a hearing request, protesting the Department's recoupment action.

### **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.

Clients must report changes in circumstance that potentially affect eligibility or benefit amount within 10 days of receiving the first payment reflecting the change. This includes any change of address or change in residency. Department of Human Services Bridges Assistance Manual (BAM) 105 (October 1, 2013), pp 9-10.

The Claimant was an ongoing Food Assistance Program (FAP) recipient from November 1, 2013, through August 31, 2014. During this period, the Claimant had moved to and was living in Maryland. The Claimant applied for and received food assistance benefits while she was in Maryland during this period. The receipt of food assistance from another state is evidence of a lack of intent to remain a Michigan resident. As a non-Michigan resident, the Claimant was not eligible to receive the Food Assistance Program (FAP) benefits issued to her by the Department.

The Claimant testified that she reported her move to Maryland to the Department and she did not use her Michigan Food Assistance Program (FAP) while she was in Maryland.

However, upon her return to Michigan, the Claimant re-applied for Food Assistance Program (FAP) benefits. The Food Assistance Program (FAP) benefits issued to the Claimant from November 1, 2013, through August 31, 2014, remained available to her upon her return to Michigan. While the Claimant was in Michigan, the Claimant's Food Assistance Program (FAP) benefits were spent.

The Claimant testified that her Food Assistance Program (FAP) benefit card was stolen and that she did not spend her benefits.

The Claimant was not eligible to receive Food Assistance Program (FAP) benefits from November 1, 2013, through August 31, 2014, because she did not have the intent to remain a Michigan resident. Regardless of whether she reported to the Department that

she intended to establish herself as a resident of Maryland, the Claimant received an overissuance of Food Assistance Program (FAP) benefits that she was not entitled to. The Department is required to recoup an overissuance of benefits.

A payee on the warrant claiming it was lost or stolen must complete and sign a 1778, Affidavit Claiming Lost, Destroyed, Not Received or Stolen State Treasurer's Warrant. For stolen warrants, clients must also be encouraged to file a police report. Replacement is made only after recovery of the warrant amount. If the client and/or provider disagrees with the decision not to issue a replacement warrant, the client may request a hearing by completing a DHS-18, Request For Hearing. Department of Human Services Bridges Administrative Manual (BAM) 500 (July 1, 2014), pp 1-8.

The Claimant argued does not dispute that she was not eligible to receive the Food Assistance Program (FAP) credited to her account from November 1, 2013, through August 31, 2014. The Claimant argued that she did not receive these benefits and did not use them because they were stolen.

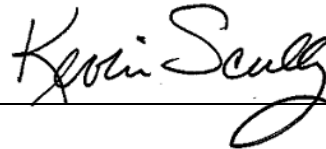
Based on the evidence and testimony available during the hearing, this Administrative Law Judge finds that the Claimant failed to establish that her Food Assistance Program (FAP) benefits were stolen before receiving notice of the Department's intent to recoup the overissuance. The Claimant did not submit an affidavit reporting the alleged theft to the Department. The Department did not investigate or recover the benefits. The Claimant did not request a hearing protesting the Department's failure to investigate or recover the benefits.

Although it is not an issue to be determined by this hearing decision, if the benefits are determined to have been stolen, recovered, and then replaced by the Department, the Department would be able to expunge them instead of recouping them from her current benefit allotment.

Based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, the Administrative Law Judge concludes that Claimant did receive an overissuance for  FAP benefits in the amount of \$1,890 that the Department is entitled to recoup.

**DECISION AND ORDER**

Accordingly, the Department's action seeking recoupment is **AFFIRMED**.



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

Date Signed: **1/16/2015**

Date Mailed: **1/16/2015**

KS/sw

**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 48909-8139

cc:

