

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-007460
Issue No.: 3008
Case No.: [REDACTED]
Hearing Date: January 08, 2015
County: CALHOUN (DISTRICT 21)

ADMINISTRATIVE LAW JUDGE: Gary Heisler

HEARING DECISION

Upon a hearing request by the Department of Human Services (Department) to establish an over-issuance (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 January 8, 2015, from Lansing, Michigan. Participants on behalf of Respondent included herself and her spouse, [REDACTED]. Participants on behalf of the Department included RS [REDACTED].

ISSUE

Did Respondent receive a \$1,515 Client Error over-issuance of Food Assistance Program benefits from December 1, 2013 to April 30, 2014 which the Department of Human Services' 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. Respondent was a recipient of Food Assistance Program benefits from the Department as a Simplified Reporter.
2. On September 2, 2013, Respondent was sent a Semi-Annual Contact Report (DHS-1046). The report was due on October 1, 2013.
3. On September 30, 2013, Respondent submitted a Semi-Annual Contact Report (DHS-1046). On the report Respondent reported that [REDACTED] began employment on September 23, 2013 working 25 hours per week at [REDACTED] per hour. The report was also marked to show that the household's monthly earned income had changed

and stated that [REDACTED] had not received any pay stubs yet but they would be provided as soon as he received one. (Pages 72 & 73)

4. On October 10, 2013, Claimant Respondent was sent a Notice of Potential Food Assistance (FAP) Closure (DHS-1046A) which stated the Semi-Annual Contact Report (DHS-1046) had not been returned. (Page 59)
5. On October 17, 2013, Respondent submitted the Semi-Annual Contact Report (DHS-1046) again. (Pages 58-70).
6. On November 1, 2013, Claimant was sent a Notice of Case Action (DHS-1605) which stated her Food Assistance Program benefit group was eligible for \$ [REDACTED] per month of Food Assistance Program benefits. The notice also provided the income limit for the group and reporting requirements. (Pages 27 & 28)
7. On July 14, 2014, Respondent was sent a Notice of Over-Issuance (DHS-4358-A).
8. On July 18, 2014, Respondent submitted a hearing request.
9. On July 23, 2014, the Department requested this Debt Establishment hearing on behalf of Respondent.

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.

Bridges Administration Manual (BAM) 725 Collection Actions, states that when the client group or CDC provider receives more benefits than entitled to receive, DHS must attempt to recoup the over-issuance. Additionally, anyone who was an eligible, disqualified, or other adult in the program group at the time the over-issuance occurred is responsible for repayment of the over-issuance.

DHS requests a debt collection hearing when the grantee of an inactive program requests a hearing after receiving the DHS-4358B, Agency and Client Error Information and Repayment Agreement. Active recipients are afforded their hearing rights automatically, but DHS must request hearings when the program is inactive.

In this case the Department alleges the over-issuance was caused by Respondent's failure to "report increased earnings" as stated on Notice of Over-Issuance (DHS-4358-A), page 6. However, the evidence in this record shows that Respondent reported the start of Georgio's earned income on September 30, 2013, 7 days after he began work. The Department did not log in the Semi-Annual Contact Report (DHS-1046) Respondent submitted on September 30, 2013 and sent Respondent a Notice of Potential Food Assistance (FAP) Closure (DHS-1046A). Respondent then submitted the same Semi-Annual Contact Report (DHS-1046) again on October 7, 2013.

The evidence shows that Respondent reported the increased income and the Department did not act on the reported change. During this hearing, the Department focused on the question of whether Respondent had verified the income. In accordance with Bridges Administration Manual (BAM) 200 Food Assistance Simplified Reporting, a recipient is responsible for reporting income changes. In accordance with BAM 200 and Bridges Administration Manual (BAM) 130 Verification and Collateral Contacts, once the recipient reports the change the burden shifts to the Department to seek verification and process the change. In accordance with BAM 130 and Bridges Eligibility Manual (BEM) 501 Income From Employment and BEM 505 Prospective Budgeting/Income Change Processing if the reported change is an increase in income and the recipient does not verify the change, the Department is required to stop the assistance.

In this case Respondent did not report that Georgio was going to start working, it was reported that Georgio was already working. Respondent also provided his expected hours and wage. Once the employment was reported, the burden was on the Department to follow BAM 130 and obtain verification and process the change or stop the benefits. The fact that Respondent indicated she would provide the verification as soon as she had it, does not relieve the Department of their burden to process the reported change in accordance with policy.

Bridges Administration Manual (BAM) 700 Benefit Over-Issuances states:

OVERISSUANCE TYPES

All Programs

The three different types are described below. Further detail is included in BAM 705, 715 and 720.

Agency Error

All Programs

An agency 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.).

If unable to identify the type, record it as an agency error.

Client Error

All Programs

A **client error** occurs when the client received more benefits than they were entitled to because the client gave incorrect or incomplete information to the department.

The facts of this case do not constitute Respondent giving “incomplete information” and causing the over-issuance. The facts of this case show that the over-issuance occurred because the Department did not use the reported/available information. This is an agency error over-issuance.

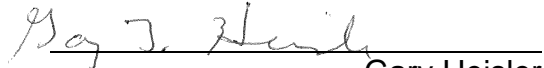
Bridges Administration Manual (BAM) 705 Agency Error Over-Issuances and BAM 715 Client/CDC Provider Error Over-Issuance have different requirements for determining the over-issuance period and the over-issuance amount in cases where earned income was not included in the Food Assistance Program financial eligibility budget. The over-issuance amount calculations in this record are not applicable to any agency error over-issuance which occurred.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department HAS NOT established that Respondent received a Client Error over-issuance of Food Assistance Program benefits.

Accordingly, the Department is **REVERSED**.

Nothing in this Decision and Order precludes the Department from pursuing collection or recoupment of a correctly calculated Agency Error over-issuance. However, the process must be restarted and conducted in accordance with Department policy.



Gary Heisler
Administrative Law Judge
for Nick Lyon, Interim Director
Department of Human Services

Date Signed: **1/27/2015**

Date Mailed: **1/27/2015**

GFH/hj

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:

