

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

**IN THE MATTER OF:**



Reg. No.: 14-016033  
Issue No.: 3006  
Case No.: [REDACTED]  
Hearing Date: January 06, 2015  
County: MUSKEGON

**ADMINISTRATIVE LAW JUDGE:** Gary Heisler

**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, a telephone hearing was held on January 6, 2015, from Lansing, Michigan. Participants on behalf of the Department included FIM [REDACTED] and RS [REDACTED]. Participants on behalf of Respondent included herself. It is noted that this recoupment hearing and an Debt Establishment for Family Independence Program benefits under Register # 14-011642 were conducted simultaneously.

**ISSUE**

Did Claimant receive a \$1,913 over-issuance of Food Assistance Program benefits from March 1, 2009 to February 28, 2010?

**FINDINGS OF FACT**

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On February 18, 2009, Respondent/Claimant submitted a Food Assistance Program application. On the application Claimant reported that her son, Malique, received Retirement, Survivors, Disability Income benefits.
2. On April 30, 2009, Respondent/Claimant submitted a Family Independence Program application. On the application Claimant reported that her son, Malique, received Retirement, Survivors, Disability Income benefits.
3. March 1, 2009 to February 28, 2010 has been properly determined as the Food Assistance Program over-issuance period.
4. Due to the agency error of not including Malique's Retirement, Survivors, Disability Income in Respondent/Claimant's financial eligibility budget, she received a \$ [REDACTED] over-issuance of Food Assistance Program benefits from March 1, 2009 to February 28, 2010.

5. May 1, 2009 to February 28, 2010 has been properly determined as the Family Independence Program over-issuance period.
6. Due to the agency error of not including Malique's Retirement, Survivors, Disability Income in Respondent/Claimant's financial eligibility budget, she received a \$ [REDACTED] over-issuance of Family Independence Program benefits from March 1, 2009 to February 28, 2010.
7. On September 10, 2014, Respondent/Claimant was sent a Notice of Over-Issuance (DHS-4358) for the Food Assistance Program over-issuance and a separate Notice of Over-Issuance (DHS-4358) for the Family Independence Program.
8. On September 15, 2014, Respondent/Claimant submitted a hearing request.

### **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 Department submitted an Assistance Application (DHS-1171) dated February 18, 2009 that Claimant submitted to the Department prior to the alleged over-issuance period. This application is sufficient to establish that Respondent was provided the recoupment responsibilities of receiving assistance.

#### **Over-issuance Period**

##### **Agency Error**

BAM 705 Agency Error Over-Issuances, states that the over-issuance period begins the first month (or pay period for CDC) benefit issuance exceeds the amount allowed by policy or 12 months before the date the over-issuance was referred to the RS, whichever 12 month period is later.

To determine the first month of the over-issuance period for changes reported timely and not acted on, Bridges allows time for:

The full standard of promptness (SOP) for change processing, per BAM 220.

The full negative action suspense period.

The over-issuance period ends the month (or pay period for CDC) before the benefit is corrected.

In this case, the error did not occur due to a reported change. Because Claimant reported the income on the application, the over-issuance period begins with the date of the application.

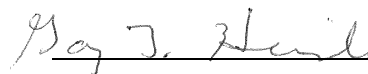
**Over-issuance Amount**

BAM 705 Agency Error Over-Issuances, states the over-issuance amount is the benefit amount the group actually received minus the amount the group was eligible to receive. The Department presented a benefit summary showing that the State of Michigan issued a total of \$ [REDACTED] of Food Assistance Program benefits to Claimant during the over-issuance period. In accordance with the over-issuance budgets submitted by the Department, Claimant was actually eligible for \$ [REDACTED] of Food Assistance Program benefits. Claimant received a \$ [REDACTED] over-issuance of Food Assistance Program benefits.

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 a \$ [REDACTED] Food Assistance Program over-issuance that the Department is entitled to recoup.

**DECISION AND ORDER**

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



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

Date Signed: **1/14/2015**

Date Mailed: **1/14/2015**

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 48909-8139

CC:

