

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-010924
Issue No.: 3006
Case No.: [REDACTED]
Hearing Date: February 10, 2015
County: Kalamazoo

ADMINISTRATIVE LAW JUDGE: Kevin Scully

HEARING DECISION

Following Respondent'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 February 10, 2015, from Lansing, Michigan. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Recoupment Specialist.

Participants on behalf of Respondent included [REDACTED].

ISSUE

Did the Department properly determine that the Respondent received an overissuance of Food Assistance Program (FAP) benefits from April 1, 2012, through August 31, 2012?

FINDINGS OF FACT

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

1. The Respondent was an ongoing Food Assistance Program (FAP) recipient from April 1, 2012, through August 31, 2012.
2. The Respondent received unemployment compensation benefits from February 20, 2012, through December 31, 2012.
3. The Department failed to consider the Respondent's unemployment compensation benefits when determining his Food Assistance Program (FAP) benefit level from April 1, 2012, through August 31, 2012.
4. From April 1, 2012, through August 31, 2012, the Respondent received Food Assistance Program (FAP) benefits totaling \$ [REDACTED] but would not have been eligible to receive any of these benefits if his unemployment compensation benefits had been considered.

5. On August 21, 2014, the Department sent the Respondent a Notice of Overissuance (DHS-4358-A).
6. On September 3, 2014, the Department received the Respondent's request for a hearing protesting the recoupment of Food Assistance Program (FAP) benefits.

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), Department of Human Services Reference Tables Manual (RFT), and Department of Human Services Emergency Relief Manual (ERM).

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.

When a client group receives more benefits than it is entitled to receive, the Department must attempt to recoup the overissuance. An agency error is caused by incorrect action (including delayed or no action) by Department staff or department processes. 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. Client and agency errors are not pursued if the estimated amount is less than \$250 per program. Department of Human Services Bridges Administrative Manual (BAM) 700 (May 1, 2014), pp 1-9.

Overissuance balances on inactive cases must be repaid by lump-sum or monthly cash payments unless collection is suspended. Department of Human Services Bridges Administrative Manual (BAM) 725 (July 1, 2014), p 8.

Clients must report changes in circumstance that potentially affect eligibility or benefit amount within 10 days of receiving the first payment reflecting the change. Clients are required to report starting or stopping sources of unearned income. Department of Human Services Bridges Assistance Manual (BAM) 105 (December 1, 2011), pp 1.

The Respondent was an ongoing Food Assistance Program (FAP) recipient from April 1, 2012, through August 31, 2012. The Respondent received unemployment compensation benefits from February 20, 2012, through December 31, 2012.

The Department's representative alleges that the Respondent failed to report his unemployment compensation benefits to the Department. The Department issued the Respondent Food Assistance Program (FAP) benefits totaling \$[REDACTED] from April 1, 2012, through August 31, 2012, but if the Respondent had reported his unemployment compensation benefits, then he would not have been eligible for any Food Assistance Program (FAP) benefits during this period.

The Respondent argued that the Department should have been aware of this unemployment compensation benefits. The Respondent argued that the Department failed to properly determine his eligibility for Food Assistance Program (FAP) benefits from April 1, 2012, through August 31, 2012, because it used the wrong monthly housing expenses.

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The Department will provide an administrative hearing to review the decision and determine the appropriateness. The Michigan Administrative Hearing System (MAHS) may grant a hearing for any of the following:

A request for hearing must be in writing and signed by the claimant, petitioner, or authorized representative. Rule 400.904(1). Moreover, the Department of Human Services Bridges Administrative Manual (BAM) 600 (March 1, 2014), p. 5, provides in relevant part as follows:

The client or authorized hearing representative has *90 calendar days from the date of the written notice of case action to request a hearing*. The request must be received anywhere in DHS within the 90 days. [Emphasis added.]

The Department will verify shelter expenses at application and when a change is reported. If the client fails to verify a reported change in shelter, the Department will remove the old expense until the new expense is verified. Department of Human Services Bridges Eligibility Manual (BEM) 554 (January 1, 2011), pp 11.

The Respondent does not dispute that he received unemployment compensation benefits. Since this unearned income was not included in his Food Assistance Program (FAP) eligibility determination, he received more benefits than he was eligible for. This fits the definition of a client error overissuance because the Respondent had a duty to report the unemployment compensation benefits.

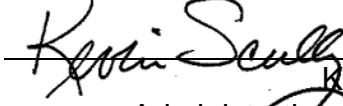
The Respondent failed to present evidence that he made a timely report of a change of monthly housing expenses different than those used to determine his Food Assistance Program (FAP) eligibility from April 1, 2012, through August 31, 2012. The Department will only consider verified changes to shelter expenses. Furthermore, the Respondent's hearing request is not a timely challenge to the amount of Food Assistance Program (FAP) benefits he received during that period.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department acted in accordance with Department policy when it determined that the Respondent received an overissuance of Food Assistance Program (FAP) benefits that the Department is required to recoup.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.

The Department is ORDERED to initiate collection procedures for an \$835 overissuance in accordance with Department policy.



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

Date Signed: **2/24/2015**

Date Mailed: **2/24/2015**

KS/las

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:

