

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-017391
Issue No.: 3007
Case No.: [REDACTED]
Hearing Date: January 22, 2015
County: KALAMAZOO

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 22, 2015, from Lansing, Michigan. Participants on behalf of Claimant included herself and her step-father [REDACTED]. Participants on behalf of the Department of Human Services (Department) included Hearing Facilitator [REDACTED] and Recoupment Specialist [REDACTED].

ISSUE

Did Respondent receive a \$ [REDACTED] Client Error over-issuance of Food Assistance Program benefits from April 1, 2014 to October 31, 2014 which 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. On April 9, 2014, Respondent submitted a Food Assistance Program application. The application stated that Respondent had no income of any type.
2. Beginning on April 15, 2014, funds were deposited in Respondent's bank account each month by her ex-husband.
3. On October 27, 2014, Respondent's case worker made the over-issuance referral to a Recoupment Specialist.
4. On November 12, 2014, Respondent was sent a Notice of Over-Issuance (DHS-4358).

5. On November 24, 2014, Respondent submitted a hearing request.
6. On December 12, 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.

The Department submitted an Assistance Application (DHS-1171) dated April 9, 2014 that Respondent 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

Client/CDC Provider Error

BAM 715 Client/CDC Provider 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** 72 months before the date it was referred to the RS, whichever is later.

To determine the first month of the over-issuance period (for over-issuances 11/97 or later) Bridges allows time for:

The client reporting period, per BAM 105.

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

The full negative action suspense period: see BAM 220, Effective Date of Change.

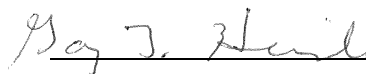
The over-issuance period ends the month (or pay period for CDC) before the benefit is corrected.

The alleged client error which caused this over-issuance occurred on April 15, 2014. Applying the over-issuance period definition, the over-issuance period should begin no sooner than May 17, 2014. The Food Assistance Program issuance summary submitted by the Department shows that Respondent was issued Food Assistance Program benefits on the 11th of each month. That means that the Food Assistance Program benefits issued on June 11, 2014, are the first benefits over-issued due to the alleged client error. The over-issuance period and amount alleged in this case are incorrect.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that the Department HAS NOT established that Respondent received a \$997 Client error of Food Assistance Program benefits.

Accordingly, the Department's alleged recoupment/collection action is NOT UPHELD.



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

Date Signed: **2/12/2015**

Date Mailed: **2/12/2015**

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:

