

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

IN THE MATTER OF:

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Reg. No.: 14-005823
Issue No.: 3006
Case No.: ██████████
Hearing Date: November 24, 2014
County: OAKLAND- 3 (SOUTHFIELD)

ADMINISTRATIVE LAW JUDGE: Robert J. Chavez

HEARING DECISION

Upon a hearing request by the Department of Human Services (Department) to establish an overissuance (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 November 24, 2014, from Detroit, Michigan. Participants on behalf of the Department included ██████████, Recoupment Specialist, and ██████████, Regulation Agent for the Office of Inspector General (OIG).

Participants on behalf of Respondent included Danielle Chase.

ISSUE

Did Respondent receive an OI of FAP benefits?

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 FAP benefits from the Department.
2. The Department alleges Respondent received a FAP OI during the period of January 1, 2012 through August 31, 2013, due to client error.
3. The Department alleges that Respondent received a \$996 OI that is still due and owing to the Department.

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.

Additionally, the Department alleges that the Respondent caused an OI to occur by failing to report a joint checking account in her name, from which she drew money. The Department determined the OI using the amount Respondent drew from the account each month, and counted that amount as income.

While this is certainly a novel theory, it nonetheless ignores the fact that, according to policy, a joint checking account is an asset. Drawing money out of this account does not in any way change this from an asset and there is no policy supporting the idea that this money, in a checking account, is not an asset. BEM 400 (2012). Furthermore, at no point did this asset exceed the FAP asset limit found in BEM 400.

This is not to say that, if a person, even a person listed as an owner on the account, is regularly depositing money to the account, that that money is not income. Per BEM 400, any money in a joint checking account is considered as belonging to the group member, and it therefore follows that any money deposited to the account from a third party is therefore income. However, the Department did not use this method to determine the overissuance amount; the Department considered the money that Respondent drew out of the account as income, a method for which there is no policy to support.


As such, the undersigned finds that the recoupment as given is invalid, as it was determined by a method wholly unsupported by policy.

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that the Department did not establish an FAP benefit OI to Respondent totaling \$996.

DECISION AND ORDER

Accordingly, the Department is REVERSED.

The Department is ORDERED to delete the OI and cease any recoupment proceedings.



Robert J. Chavez
Administrative Law Judge
for Nick Lyon, Interim Director
Department of Human Services

Date Signed: **3/4/2015**
Date Mailed: **3/4/2015**
RJC / tm

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: 