

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

IN THE MATTER OF:

██████████
██████████
██████████

Reg. No.: 15-004956
Issue No.: 3006
Case No.: ██████████
Hearing Date: May 14, 2015
County: MACOMB-20 (WARREN)

ADMINISTRATIVE LAW JUDGE: Robert J. Chavez

HEARING DECISION

Upon the request for a hearing by the Department of Health and Human Services (Department), this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9, and in accordance with Titles 7, 42 and 45 of the Code of Federal Regulation (CFR), particularly 7 CFR 273.16 and 45 CFR 235.110; and with Mich Admin Code, R 400.3130 and 400.3178. After due notice, a telephone hearing was held on May 14, 2015, from Detroit, Michigan. The Department was represented by ██████████ Recoupment Specialist

Respondent appeared pro se.

ISSUE

Did Respondent receive an overissuance (OI) of Food Assistance Program (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 October 1, 2014 through March 31, 2015, due to the Department's error.
3. The Department alleges that Respondent received ██████████ agency error OI that is still due and owing to the Department.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services

Bridges Eligibility Manual (BEM), and Department of Health and Human Services Reference Tables Manual (RFT).

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food and Nutrition Act of 2008, 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 Department of Human Services) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011.

Additionally, Respondent did not protest the amount of the recoupment, whether there was an error, or allege in any way that the Department's recoupment calculation was in some way faulty. The Administrative Law Judge has reviewed the calculations and found no errors.

The alleged OI was due to two FAP cases opened in Respondent's name, as the result of an agency error. Respondent disputes whether they received the extra benefits in question; Respondent presented, without evidence, a theory that Respondent's identical twin brother took possession of the second benefit card (the details were muddled as to how this exactly occurred) and used those benefits.

This may or may not be true. Though Respondent presented no evidence, there were some irregularities in the second benefit case number that lent some credibility to the Respondent's story. That being said, extraordinary claims require extraordinary evidence, and without this evidence, the Respondent cannot hold that Respondent did not receive the benefits in question.

Furthermore, the Department has presented evidence that both benefit cards in question were sent to the Respondent's address, and both sets of benefits were used. Respondent has presented no evidence to dispute the Department's evidence.

Without evidence that the Respondent did not actually use the benefits in question, the undersigned holds that the Department showed, through a preponderance of the evidence, that an agency error that caused an OI occurred. Respondent was issued dual benefits, one set of which must be recouped.

Therefore, as the evidence shows that the calculations were correct, and as there is no dispute as to the calculation methods, and as the recoupment amount is over the threshold for recoupment for agency error as provided in policy, and as there was an actual error, the Administrative Law Judge holds that the Respondent received FAP benefits that they were not entitled to, and must repay the benefits through the recoupment process.

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that the Department established a FAP agency error benefit OI to Respondent totaling \$ [REDACTED]

DECISION AND ORDER

Accordingly, the Department is AFFIRMED.

The Department is ORDERED to initiate collection procedures for a FAP benefit agency error OI to Respondent totaling \$ [REDACTED] in accordance with Department policy.



Robert J. Chavez
Administrative Law Judge
For Nick Lyon, Director
Department of Health and Human Services

Date Signed: **5/26/2015**

Date Mailed: **5/26/2015**

RJC / tm

NOTICE OF APPEAL: The law provides that within 30 days of receipt of the above Hearing Decision, the Respondent may appeal it to the circuit court for the county in which he/she lives or the circuit court in Ingham County. A copy of the claim or application for appeal must be filed with the Michigan Administrative Hearing System (MAHS).

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| [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
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