

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

IN THE MATTER OF:

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████████████████████

Reg. No.: 14-014737
Issue No.: 3006
Case No.: ██████████
Hearing Date: March 30, 2015
County: Dickinson

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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 three way telephone hearing was held on March 30, 2015, from Detroit, Michigan. The Department was represented by ██████████, Recoupment Specialist and ██████████, Assistance Payment Supervisor. Participants on behalf of Respondent included ██████████.

ISSUE

Did Respondent receive an 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. On September 24, 2014, the Department sent Respondent a Notice of Overissuance alleging that she received an OI of FAP benefits totaling \$8824 for the period from April 1, 2013, to August 31, 2014, due to the client's error.
3. On October 3, 2014, Respondent filed a hearing request disputing the Department's actions.

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 to .3015.

In this case, on January 3, 2013, Respondent submitted an application for FAP benefits on which she lists her husband, [REDACTED] as a group member and on which she acknowledges the rights and responsibilities to report changes in circumstances. (Exhibit A). Based upon the information provided in Respondent's application, she was approved for FAP benefits and her group was assigned to the simplified reporting (SR) category. The Department alleges that Respondent received an \$8824 client error caused OI in FAP benefits from April 1, 2013, to August 31, 2014, because she failed to report [REDACTED] employment and income from the [REDACTED] (VA). The Department stated that the OI was due to Respondent's household income exceeding the SR income limit of \$2927.

When a client group receives more benefits than they are entitled to receive, the Department must attempt to recoup the OI. BAM 700 (May 2014), p. 1. A client error OI occurs when the client received more benefits than they were entitled to because the client gave incorrect or inaccurate information to the Department. BAM 700, p.6. The amount of the overissuance is the benefit amount the group actually received minus the amount the group was eligible to receive. BAM 715 (July 2014), p. 6; BAM 705 (July 2014), p. 6.

SR groups are required to report only when the group's actual gross monthly income exceeds the SR limit for their group size. If the group has an increase in income, the group must determine their total gross income at the end of that month. If the total gross income exceeds the group's SR income limit; see RFT 250, the group must report this change to their specialist by the 10th day of the following month. BAM 200 (December 2011), p. 1.

The only client error OIs related to SR simplified reporting that can occur for FAP groups in SR categories are when the group fails to report that income exceeds the group's SR income limit, or the client voluntarily reports inaccurate information. For failure to report income over the limit, the first month of the overissuance is two months after the actual monthly income exceeded the limit. BAM 200, p. 5.

In support of its FAP OI case, the Department provided copies of Respondent's husband's Work Number showing that he became employed at the VA on January 27, 2013, that he received his first paycheck on February 9, 2013, and that he continued to be employed and earning income throughout the alleged OI period. (Exhibit E). The documents presented detail the amounts earned and the pay dates. The Department also established that Respondent continued to receive FAP benefits with [REDACTED] included as a group member and FAP Net Income Results budgets for the period at issue showing that [REDACTED] earned income was not previously included in the calculation of Respondent's FAP benefits. (Exhibit B;Exhibit C;Exhibit D;and Exhibit F).

The Department also presented FAP OI Budgets for each month showing how the Department calculated the OI. (Exhibit G). A review of the budgets provided and Department policy establishes that the Department properly determined that the first month of the OI period was April 1, 2013. BAM 200, p. 5. The budgets show that when Respondent's husband's unreported earned income was included in the calculation of the group's FAP benefit eligibility, Respondent's group was eligible to receive \$0 in FAP benefits. (Exhibit G).

At the hearing, Respondent testified that her husband was in and out of the home and that he spent more time out of the home, than in the home. Respondent testified that her husband did not contribute to the family with respect to income and finances and stated that she was responsible for all finances in the home. Notwithstanding Respondent's testimony, her husband remained listed as a member of her FAP group and that the group continued to receive benefits on his behalf throughout the OI period.

Thus, the Department is entitled to recoup or collect from Respondent \$8824, the difference between the \$8824 in FAP benefits actually issued to her and the \$0 in FAP benefits she was eligible to receive between April 1, 2013, and August 31, 2013.

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that the Department **did** establish a FAP benefit OI to Respondent totaling \$8824.

DECISION AND ORDER

Accordingly, the Department is AFFIRMED.

The Department is ORDERED to initiate collection procedures for a \$8824 OI in accordance with Department policy.



Zainab Baydoun
Administrative Law Judge
For Nick Lyon, Director
Department of Health and Human Services

Date Signed: **4/24/2015**

Date Mailed: **4/24/2015**

ZB / tlf

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]