

**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.: 14-017331
Issue No.: 3006
Case No.: ██████████
Hearing Date: March 30, 2015
County: Muskegon

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 ██████████, Family Independence Manager. 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 June 29, 2012, the Department sent Respondent a Notice of Overissuance alleging that she received an OI of FAP benefits totaling \$419 for the period from January 1, 2011, to August 31, 2011, due to the client's error.
3. On July 6, 2012, 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, the Department initially alleged that Respondent received a \$419 client error caused OI in FAP benefits from January 1, 2011, to August 31, 2011, because she failed to timely report her employment and income to the Department. Clients must report changes in circumstances, such as changes in income or employment that potentially affect eligibility or benefit amount within 10 days of receiving the first payment reflecting the change. BAM 105 (January 2010), p.7. The Department provided Respondent's July 12, 2010, signed assistance application on which she acknowledges the rights and responsibilities to report changes.

The Department testified that after conducting a pre-hearing conference with Respondent, it determined that the correct OI period should be February 1, 2011, to June 30, 2011, and that the OI amount should be reduced to \$272, still based on client error. 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.

During the period between February 1, 2011, and June 30, 2011, the Department alleges that Respondent was issued \$1261 in FAP benefits by the State of Michigan, and the Department alleges that Respondent was entitled to \$989 in such benefits during this time period, resulting in an OI of FAP benefits of \$272.

In support of its FAP OI case, the Department testified that Respondent became employed as a substitute teacher with ██████ in October 2010, and that she failed to report the employment and income until June 2011, when Respondent submitted her Redetermination to the Department. The Department presented Respondent's Verification of Employment which indicates that she became employed on October 16, 2010. While the Compensation Report and related documents presented detail the

amounts earned and the pay dates, they do not contain any pay information prior to January 28, 2011, however.

The Department provided FAP Worksheets for each month in the OI period showing how the OI was determined. A review of the budgets provided and Department policy establishes that based on a first paycheck received on January 28, 2011, as indicated by the Department's documents, the Department improperly determined that the first month of the OI period was February 1, 2011. In consideration of the first paycheck, the first month of the OI period should be March 1, 2011. Additionally, a review of the FAP OI budgets and the verification of employment information presented by the Department, shows that when Respondent's unreported earned income is included in the calculation of her benefits, she was eligible to receive \$675 in FAP benefits for the period between March 1, 2011, and June 30, 2011.

Thus, the Department is entitled to recoup or collect from Respondent \$219, the difference between the \$894 in FAP benefits actually issued to her and the \$675 in FAP benefits she was eligible to receive.

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 \$219.

DECISION AND ORDER

Accordingly, the Department is AFFIRMED.

The Department is ORDERED to initiate collection procedures for a \$219 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]