

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 15-002899
Issue No.: 3006
Case No.: [REDACTED]
Hearing Date: June 11, 2015
County: Mecosta

ADMINISTRATIVE LAW JUDGE: Kevin Scully

HEARING DECISION

Following Respondent'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, telephone hearing was held on June 11, 2015, from Lansing, Michigan. Participants on behalf of the Department of Health and Human Services (Department) included [REDACTED]. Participants on behalf of Respondent included [REDACTED].

ISSUE

Did the Department properly determine that the Respondent received an overissuance of Food Assistance Program (FAP)?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. The Respondent was a Food Assistance Program (FAP) recipient from May 1, 2014, through July 31, 2014.
2. On April 2, 2014, the Respondent reported to the Department new employment.
3. From May 1, 2014, through July 31, 2014, the Respondent received Food Assistance Program (FAP) benefits totaling \$ [REDACTED].
4. On February 19, 2014, the Department sent the Respondent a Notice of Overissuance (DHS-4358).
5. On February 25, 2015, the Department received the Respondent's request for a hearing protesting the recoupment of Food Assistance Program (FAP) benefits.

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), Department of Health and Human Services Reference Tables Manual (RFT), and Department of Health and Human Services Emergency Relief Manual (ERM).

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.

When a client group receives more benefits than it is entitled to receive, the Department must attempt to recoup the overissuance. An agency error is caused by incorrect action (including delayed or no action) by Department staff or Department processes. A client error occurs when the client received more benefits than they were entitled to because the client gave incorrect or incomplete information to the department. Client and agency errors are not pursued if the estimated amount is less than \$250 per program. Department of Health and Human Services Bridges Administrative Manual (BAM) 700 (May 1, 2014), pp 1-9.

Overissuance balances on inactive cases must be repaid by lump-sum or monthly cash payments unless collection is suspended. Department of Health and Human Services Bridges Administrative Manual (BAM) 725 (July 1, 2014), p 8.

The Respondent was an ongoing Food Assistance Program (FAP) recipient from May 1, 2014, through July 31, 2014, and received benefits totaling \$ [REDACTED]. On April 2, 2014, the Respondent reported to the Department that she was starting new employment and she received her first paycheck on March 29, 2014. Due to the Department's error, the Respondent's income was not used to update her eligibility for continuing benefits. If the Department had considered this new source of income, it would have discovered that the Respondent was not eligible for FAP benefits. As a result, the Respondent received a \$ [REDACTED] overissuance of FAP benefits.

The Respondent argued that she should not be responsible for an overissuance of benefits caused by the Department's error.


The Respondent's grievance centers on dissatisfaction with the Department's current policy. Administrative Law Judges have no authority to overrule promulgated regulations, or make exceptions to the Department policy set out in the program manuals. Furthermore, administrative adjudication is an exercise of executive power rather than judicial power, and restricts the granting of equitable remedies. Michigan Mutual Liability Co. v Baker, 295 Mich 237; 294 NW 168 (1940).

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department acted in accordance with Department policy when it determined that the Respondent received a \$ [REDACTED] overissuance of Food Assistance Program (FAP) benefits.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.

The Department is **ORDERED** to initiate collection procedures for a \$ [REDACTED] overissuance in accordance with Department policy.



Kevin Scully
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **6/15/2015**

Date Mailed: **6/15/2015**

KS/las

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:

