

**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.: 14-014900
Issue No.: 3006
Case No.: ██████████
Hearing Date: April 06, 2015
County: Macomb-District 20 (Warren)

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 April 6, 2015, from Detroit, Michigan. The Department was represented by ██████████, Recoupment Specialist and ██████████, Hearings Facilitator. 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 October 20, 2014, the Department sent Respondent a Notice of Overissuance alleging that she received an OI of FAP benefits totaling \$5790 for the period from July 1, 2010, to March 31, 2011, due to agency error. (Exhibit A, pp. 34-39)
3. On October 24, 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, the Department alleges that from July 1, 2010, to March 31, 2011, Respondent received a \$5790 agency error caused OI in FAP benefits because the Department failed to budget Respondent and her two children's social security income from RSDI. 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. An agency error OI is caused by incorrect actions by the Department, including delayed or no action, which result in the client receiving more benefits than they were entitled to receive. BAM 700, p.4. 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.

The Department alleged that the State of Michigan issued \$5790 in FAP benefits to Respondent from July 1, 2010, to March 31, 2011, and that Respondent was eligible for \$0 in FAP benefits during this period, on the basis that her income exceeded the FAP income limit for a group size of four. The FAP Benefit Summary Inquiry provided by the Department however, only shows issuances in the amount of \$5146 during this period, as there was no issuance on the summary for the month of March 2011. (Exhibit A, p. 33). Thus, because the Department did not establish that Respondent was issued FAP benefits by the State of Michigan for March 2011, the Department is not entitled to recoupment for that month, as there was no OI established.

In support of its OI case for the period between July 1, 2010, and February 28, 2011, the Department presented SOLQ reports for Respondent and her two children which show that they became entitled to RSDI benefits in May 2010 and each in the amount of \$771 monthly. (Exhibit A, pp. 21-32). Although Respondent did not dispute that she and her children received RSDI benefits in the amount of \$771, Respondent stated that she and her children did not start receiving the benefits in May 2010. Respondent testified that her husband passed away on May 28, 2010, and that she did not start receiving the benefits until July 2010. Although the SOLQ shows an entitlement date of May 2010, the documents presented by the Department do not establish that Respondent and her

children actually received the RSDI benefits prior to July 2010. Changes such as starting or stopping employment, earning income, and starting or stopping a source of unearned income must be reported within ten days of receiving the first payment reflecting the change. BAM 105 (January 2009 and January 2011), p.7. Because the Department testified that the OI was a result of agency error, it is presumed that the Respondent timely reported the unearned income.

Thus, in consideration of unearned income that started in July 2010, the first month of the OI period should begin September 1, 2010, rather than July 2010, as the Department determined. The Department presented FAP Budgets for each month in the OI period showing how the Department calculated the OI. A review of the budgets provided and Department policy shows that when the unearned income from RSDI is included in the calculation of the benefits, the group was eligible to receive \$0 in FAP benefits from September 1, 2010, to February 28, 2011.

Therefore, the Department is entitled to recoup or collect from Respondent \$3862, the difference between the \$3862 in FAP benefits actually issued to her from September 1, 2010, to February 28, 2011, and the \$0 in FAP benefits she was eligible to receive during this period.

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 \$3862.

DECISION AND ORDER

Accordingly, the Department is AFFIRMED.

The Department is ORDERED to reduce the FAP OI to \$3862 for the period September 1, 2010 to February 28, 2011, and initiate collection procedures for a \$3862 OI in accordance with Department policy.



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

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

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

ZB / tlf

