

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 15-011424
Issue No.: 3008, 1000
Case No.: [REDACTED]
Hearing Date: August 18, 2015
County: KENT-DISTRICT 1
(FRANKLIN)

ADMINISTRATIVE LAW JUDGE: [REDACTED]

HEARING DECISION

Following Claimant'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 August 18, 2015, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of the Department included [REDACTED], Recoupment Specialist. [REDACTED] of Linguistica International acted as interpreter.

ISSUE

Did the Department of Health and Human Services (Department) properly determine that the Claimant received an overissuance 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. On September 17, 2012, the Claimant applied for Food Assistance Program (FAP), Family Independence Program (FIP), and Medical Assistance (MA) benefits.
2. On January 30, 2015, the Department received the Claimant's application for Family Independence Program (FIP) benefits, also known as cash benefits.
3. On May 7, 2015, the Department discovered that the Claimant was employed and received earned income from October 21, 2014, through April 28, 2015.
4. The Claimant was an ongoing Food Assistance Program (FAP) recipient from December 1, 2014, through April 30, 2015.

5. On May 15, 2015, the Department sent the Claimant a Notice of Overissuance (DHS-4358-A) listing a \$ [REDACTED] overissuance of Food Assistance Program (FAP) benefits.
6. On June 23, 2015, the Department received the Claimant's request for a hearing protesting the recoupment of Food Assistance Program (FAP) benefits.
7. On June 25, 2015, the Claimant signed a repayment agreement for an overissuance of Family Independence Program (FIP) 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, DHS must attempt to recoup the overissuance. Department of Human Services Bridges Administrative Manual (BAM) 700 (May 1, 2014), p 1.

Clients must report changes in circumstance that potentially affect eligibility or benefit amount within 10 days of receiving the first payment reflecting the change. Department of Human Services Bridges Assistance Manual (BAM) 105 (January 1, 2015), pp 1-20.

Income reporting requirements are limited to the following:

- Earned income:
 - Starting or stopping employment.
 - Changing employers.
 - Change in rate of pay.
 - Change in work hours of more than five hours per week that is expected to continue for more than one month. BAM 105.

On September 17, 2012, the Claimant applied for FAP benefits and acknowledged the requirements of receiving these benefits. On January 30, 2015, the Claimant applied for additional benefits under the Family Independence Program (FIP). On this

application, the Claimant indicated that she was not receiving any earned income from employment.

On May 7, 2015, the Department discovered that the Claimant was employed and received earned income from October 21, 2014, through April 28, 2015. This income was not used to determine the Claimant's eligibility for FAP benefit. From December 1, 2014, through April 30, 2015, the Claimant received FAP benefits totaling \$ [REDACTED], but would only have been eligible for \$ [REDACTED] of those benefits if all her available income had been considered. As a result, the Claimant received a \$1,438 overissuance of FAP benefits.

The Claimant testified that she reported this income to the Department but was unable to provide any evidence supporting this claim.


The Claimant has no entitlement to benefits that she was not eligible for. Even if the Claimant could establish that she reported her income in a timely manner, the Department would still be required to recoup the resulting overissuance of benefits regardless of whether it was the Department or the Claimant that caused the error.

On May 15, 2015, the Department sent the Claimant a Notice of Overissuance (DHS-4358-A) listing a \$ [REDACTED] overissuance of cash benefits. On June 25, 2015, the Claimant submitted a signed repayment agreement for this overissuance and the Michigan Administrative Hearing System has no jurisdiction to hear or decide upon the validity of this debt.

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 Claimant received a \$ [REDACTED] overissuance of Food Assistance Program (FAP) benefits that the Department is now required to recoup.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.



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

Date Signed: **8/25/2015**

Date Mailed: **8/25/2015**

KS/■

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 48909-8139

cc:

