

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

IN THE MATTER OF:

[REDACTED]

MAHS Reg. No.: 14-011940
Issue No.: 3006
Agency Case No.: [REDACTED]
Hearing Date: October 29, 2015
County: GENESEE-DISTRICT 6
(CLIO RD)

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 October 29, 2015, from Lansing, Michigan. Participants on behalf of the Department of Health and Human Services (Department) included [REDACTED] (Recoupment Specialist). Participants on behalf of Respondent included [REDACTED].

ISSUE

Did the Department properly determine that the Respondent 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 January 7, 2010, the Department received the Respondent's application for Food Assistance Program (FAP) benefits where she acknowledged the requirements of receiving FAP benefits.
2. On January 7, 2010, the Respondent reported that she was employed at a rate of \$ [REDACTED] per hour, and another group member (J.T.) was employed at a rate of \$ [REDACTED] per hour.
3. On March 21, 2010, the Respondent reported that her pay rate had increase to \$ [REDACTED] per hour, and J.T. had received an increase of pay to \$ [REDACTED] per hour.
4. On December 18, 2010, the Respondent reported bi-weekly earnings of \$ [REDACTED], and that J.T. was receiving \$ [REDACTED] bi-weekly.
5. From February 1, 2010, through January 31, 2011, the Respondent was an ongoing Food Assistance Program (FAP) recipient of \$ [REDACTED] per month.

6. On September 8, 2014, the Department sent the Respondent a Notice of Overissuance (DHS-4358-A) with notice of its intent to recoup a \$ [REDACTED] overissuance of FAP benefits.
7. On September 19, 2014, the Department received the Respondent's request for a hearing.

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.

All earned and unearned income available to the Respondent is countable. Earned income means income received from another person or organization or from self-employment for duties that were performed for compensation or profit. Unearned income means all income that is not earned, including but not limited to funds received from the Family Independence Program (FIP), State Disability Assistance (SDA), Child Development and Care (CDC), Medicaid (MA), Social Security Benefits (RSDI/SSI), Veterans Administration (VA), Unemployment Compensation Benefits (UCB), Adult Medical Program (AMA), alimony, and child support payments. The amount counted may be more than the client actually receives because the gross amount is used prior to any deductions. Department of Human Services Bridges Eligibility Manual (BEM) 500 (July 1, 2015).

The monthly gross income limit for a group of three to receive FAP benefits from February 1, 2010, through January 31, 2011, was \$ [REDACTED]. Department of Health and

Human Services Reference Table Manual (RFT) 250 (October 1, 2009), p 1. Department of Health and Human Services Reference Table Manual (RFT) 250 (October 1, 2010), p 1.

On January 7, 2010, the Respondent acknowledged the requirements of receiving FAP benefits by submitting a signed application for FAP benefits to the Department. The Respondent reported all earned income being received by members of the benefit group on the application, and updated that income information to the Department as necessary.


However, due to Department error, this earned income was not properly applied to her benefit group's eligibility for FAP benefits. Due to the Department's error, the Respondent received a \$ [REDACTED] monthly allotment of FAP benefits from February 1, 2010, through January 31, 2011. If the Department had properly considered the income that was being received by her benefit group, the Respondent would not have been approved for FAP benefits. Therefore, the Respondent received a \$ [REDACTED] overissuance of FAP benefits due to Department error.

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 FAP benefits that the Department is required to recoup.

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: **11/18/2015**
Date Mailed: **11/18/2015**

KS [REDACTED]

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 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 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:

