

**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.: 15-000772
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 June 24, 2013, the Department received the Respondent's application for Food Assistance Program (FAP) benefits where she acknowledged the requirements of receiving FAP benefits.
2. On June 24, 2013, the Respondent reported to the Department that no one in her household was employed.
3. On July 14, 2014, the Respondent reported to the Department that she was employed and receiving \$ [REDACTED] gross weekly earnings.
4. The Respondent was an ongoing Food Assistance Program (FAP) recipient from December 1, 2013, through June 30, 2014, receiving a

\$ [REDACTED] monthly allotment of FAP benefits in December of 2013, and a \$ [REDACTED] monthly allotment in each month after that.

5. The Respondent was employed and received earned income from October 28, 2013, through August 24, 2014, and the Department verified the Respondent's actual earnings through an electronic database.
6. On September 4, 2014, the Department sent the Respondent a Notice of Overissuance (DHS-4358-A) with notification that it intended to recoup on a \$ [REDACTED] overissuance of Food Assistance Program (FAP) benefits.
7. On January 6, 2015, 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 \$ [REDACTED] 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.

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.

The Work Number is not an automated system match which must be checked at application, redetermination, semi-annual or mid-certification contact. Department of Health and Human Services Bridges Administrative Manual (BAM) 105 (July 1, 2015), p 18.

The Respondent was an ongoing FAP recipient and had reported to the Department that no one in her benefit group was employed. The Respondent received \$2,805 of FAP benefits from December 1, 2013, through June 30, 2014. On July 14, 2014, the Respondent reported that she was receiving earned income.

The Department obtained verification through the Work Number electronic database verifying the Respondent's actual earnings from employment from October 28, 2013, through August 24, 2014. If the Department had applied this earned income from employment starting on October 28, 2013, towards the Respondent's eligibility for FAP benefits, then she would not have been eligible for any FAP benefits after December 1, 2013. Therefore the Respondent received a \$ [REDACTED] overissuance of FAP benefits.

The Respondent argued that she had reported her increase of income in October of 2013, and had provided the Department with copies of her paycheck stubs in a timely manner.

The Respondent received FAP benefits during the period of alleged overissuance that were based on \$ [REDACTED] earned income. Therefore, the Respondent received an overissuance of FAP benefits. No evidence was presented on the record to establish that the Respondent supplied the Department with copies of her paycheck stubs in a timely manner. Therefore, this Administrative Law Judge finds that the Respondent received an overissuance of FAP benefits due to client error for failing to report starting income within ten days as required by BAM 105.


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 that the Department is now required to attempt 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: **11/17/2015**

Date Mailed: **11/17/2015**

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:

