

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

**IN THE MATTER OF:**



MAHS Reg. No.: 15-016873  
Issue No.: 3008  
Agency Case No.: [REDACTED]  
Hearing Date: November 03, 2015  
County: CHARLEVOIX

**ADMINISTRATIVE LAW JUDGE:** Kevin Scully

**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 November 03, 2015, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED]. [REDACTED] (Recoupment Specialist) represented the Department of Health and Human Services (Department).

**ISSUE**

Did the Department of Health and Human Services (Department) properly determine that the Claimant received an overissuance of Food Assistance Program (FAP) benefits that must be recouped?

**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 December 25, 2013, the Claimant signed a Redetermination (DHS-1010) reporting that she was receiving \$ [REDACTED] of gross earnings from employment bi-weekly.
2. On January 10, 2014, the Department receives a statement from one of the Claimant's employer's that she would not be scheduled to work any hours for that employer until spring.
3. On March 25, 2014, the Department received a Redetermination (DHS-1010) with a report that the Claimant was receiving \$ [REDACTED] of gross earnings from employment bi-weekly.
4. On December 5, 2014, the Claimant signed a Mid-Certification Contact Notice indicating no changes to her earned income.

5. The Claimant's employer provided the Department with payroll records of the Claimant's earnings from August 1, 2014, through February 28, 2015, showing an unreported increase of earnings.
6. On September 10, 2015, the Department sent the Claimant a Notice of Overissuance (DHS-4358-A) notifying her that from August 1, 2014, through February 28, 2015, she had received a \$ [REDACTED] overissuance of Food Assistance Program (FAP) benefits.
7. On September 18, 2015, the Department received the Claimant'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, DHS must attempt to recoup the overissuance. Department of Human Services Bridges Administrative Manual (BAM) 700 (May 1, 2014), p 1.

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. BAM 700, p6.

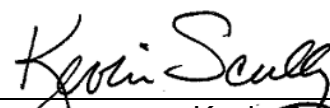
On January 10, 2014, the Claimant provided verification of decreasing income during the winter months. The Claimant was an ongoing FAP recipient from August 1, 2014, through February 28, 2015. Records provided by the Claimant's employer indicate that she received earned income from employment that was not used to determine her eligibility for continuing FAP benefits. The Claimant also receives Retirement, Survivors, and Disability Insurance (RSDI) benefits that were reported to the Department. From August 1, 2014, through February 28, 2014, the Claimant received FAP benefits totaling \$ [REDACTED]. Due to Client error, all of the Claimant's countable income was not used to determine her FAP eligibility. If all of the Claimant's income had been used to determine her FAP eligibility, she would have received only \$ [REDACTED] of FAP benefits.

Therefore, the Claimant received an \$ [REDACTED] overissuance of FAP benefits.

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 due to client error that the Department is not required to recoup.

### **DECISION AND ORDER**

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



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

Date Signed: **11/9/2015**

Date Mailed: **11/9/2015**

KS/sb

**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:

