

**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.: 15-017194
Issue No.: 3008
Agency Case No.: [REDACTED]
Hearing Date: November 05, 2015
County: MECOSTA

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 05, 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 the Department is required to recoup?

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 October 13, 2014, the Department received the Claimant's application for Food Assistance Program (FAP) benefits.
2. On October 22, 2014, the Department approved the Claimant for Food Assistance Program (FAP) benefits with a \$ [REDACTED] monthly allotment that was based on \$ [REDACTED] income.
3. The Claimant started receiving earned income from employment on May 29, 2015, and this income continued through August 29, 2015.
4. From July 1, 2015, through August 31, 2015, the Claimant received Food Assistance Program (FAP) benefits totaling \$ [REDACTED].

5. On September 11, 2015, the Department sent the Claimant a Notice of Overissuance (DHS-4358-A) with notice that she had received a \$ [REDACTED] overissuance of Food Assistance Program (FAP) benefits due to client error.
6. On September 21, 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 October 13, 2014, the Department received the Claimant's application for Food Assistance Program (FAP) benefits. On October 22, 2014, the Department approved the Claimant for Food Assistance Program (FAP) with a \$ [REDACTED] monthly allotment that was based on \$ [REDACTED] income. The Claimant started receiving earned income from employment on May 29, 2015, and this income continued through August 29, 2015. Due to client error, the Department did not apply this income towards its determination of the Claimant's FAP eligibility. If the Claimant had properly reported her income within 10 days as she was required to do so, the Department would have redetermined her FAP eligibility no later than July 1, 2015. From July 1, 2015, through August 31, 2015, the Claimant received FAP benefits totaling \$ [REDACTED], but would have been eligible for only \$ [REDACTED] if she had reported her income in a timely manner.

Therefore, the Claimant received a \$ [REDACTED] overissuance of FAP benefits due to client error.

The Claimant argued that repaying the overissuance would be a hardship based on her economic circumstances.

The Department can compromise (reduce or eliminate) an overissuance if it is determined that a household's economic circumstances are such that the overissuance cannot be paid within three years. Department of Health and Human Services Bridges Administrative Manual (BAM) 725 (October 1, 2015), p 16.


A request for a policy exception must be made from the RS to the Fraud and Recoupment Administration office outlining the facts of the situation and the client's financial hardship. The deputy director of the MDHHS Fraud and Recoupment Administration has final authorization on the determination for all compromised claims.

Send to:
Fraud and Recoupment Administration
Suite 710
235 S. Grand Ave
P.O. Box 30037
Lansing, MI 48909

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 receive an 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: **11/9/2015**

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

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 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:

