

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM**

IN THE MATTER OF:



Reg. No.: 14-017893-RECON
Old Reg No: 14-017893
Issue No.: 3006
Case No.: [REDACTED]
Hearing Date: April 23, 2015
County: Calhoun

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

**ORDER GRANTING REQUEST FOR RECONSIDERATION AND
RECONSIDERATION DECISION**

This matter is before the undersigned Supervising Administrative Law Judge pursuant to the Respondent's Authorized Hearing Representative's (AHR) timely Request for Rehearing/Reconsideration of the Hearing Decision issued by the assigned Administrative Law Judge (ALJ) at the conclusion of the hearing conducted on April 23, 2015, and mailed on May 4, 2015, in the above-captioned matter.

ISSUES

1. Did the ALJ err in determining the Food Assistance Program (FAP) overissuance (OI) amount?
2. Did the ALJ properly determine that Respondent received a FAP OI due to Department/Agency error?

FINDINGS OF FACT

The Supervising Administrative Law Judge, based upon the competent, material, and substantial evidence on the whole record, finds as material fact:

1. The Findings of Fact Numbers 1 and 2 under Registration Number 14-017893 are incorporated by reference.
2. Respondent received \$ [REDACTED] in FAP benefits during the time period of August, 2009 through February, 2010.
3. If Respondent's children's Retirement, Survivors, and Disability Insurance (RSDI) income had been properly budgeted by the Department, Respondent would have been only eligible to receive \$ [REDACTED] in FAP benefits during the relevant time period. [Dept Exh. A, p 4].

4. The Department failed to verify or properly budget Respondent's children's RSDI income, resulting in a FAP overissuance of \$ [REDACTED] during the time period of August, 2009 through February, 2010. [Dept Exh. A, p 4].
5. On April 23, 2015, a hearing was held resulting in a Hearing Decision mailed on May 4, 2015.
6. On May 29, 2015, the Michigan Administrative Hearing System (MAHS) received the Authorized Hearing Representative's Request for Rehearing/Reconsideration.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of 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 Rehearing and Reconsideration process is governed by the Michigan Administrative Code, Rule 792.11015, *et seq.*, and applicable policy provisions articulated in the Bridges Administrative Manual ("BAM"), specifically BAM 600, which provide that a rehearing or reconsideration must be filed in a timely manner consistent with the statutory requirements of the particular program that is the basis for the claimant's benefits application, and **may** be granted so long as the reasons for which the request is made comply with the policy and statutory requirements. MCL 24.287 also provides for rehearing if the hearing record is inadequate for judicial review.

Rehearings **may** be granted if

- There is newly discovered evidence that could affect the outcome of the original hearing decision.

Reconsiderations **may** be granted if requested for one of the following reasons:

- Misapplication of manual policy or law in the hearing decision;
- Typographical errors, mathematical error, or other obvious errors in the hearing decision that affect the substantial rights of the claimant
- Failure of the Administrative Law Judge to address other relevant issues in the hearing decision.

In the instant case, Respondent, by her AHR, timely requested a reconsideration of the ALJ's decision based on a mathematical or other obvious error in the hearing decision affecting the substantial rights of Respondent. In support, Respondent's AHR contends that the ALJ erroneously indicated in Findings of Fact paragraph numbers three and four of the decision that the OI amount should have been \$ [REDACTED] rather than

\$ [REDACTED] Since the AHR has asserted sufficient grounds to grant the request for review, Respondent's Request for Reconsideration is granted.

The sole issue in this case concerns whether the ALJ erred when she determined that Respondent received a FAP OI. A review of the record in this matter reveals the following typographical error in Findings of Fact paragraph number 3 in the ALJ's May 4, 2015 decision:

"Respondent received \$ [REDACTED] in FAP benefits during the time period of August, 2009 through February, 2010. If the children's RSDI income had been properly budgeted by the Department, Respondent would have only been eligible to receive \$ [REDACTED] in FAP benefits."

In this matter, Respondent did not challenge that she received FAP benefits during the time period in question. Rather, Respondent argues that the ALJ's hearing decision implies that the FAP OI amount should be \$ [REDACTED] rather than \$ [REDACTED] because the ALJ incorrectly subtracted \$ [REDACTED] from \$ [REDACTED]. Upon a close inspection of the record in this case, the Department's OI Summary reveals the correct amount Respondent received was actually \$ [REDACTED] as calculated by adding the amounts Respondent received from August, 2009 through February, 2010. [See Dept. Exh. A, page 4]. With regard to the error on Findings of Fact paragraph three, the actual FAP amount issued was \$ [REDACTED] minus the actual amount issued \$ [REDACTED] (\$ [REDACTED] for both August and September, 2009, respectively) equals \$ [REDACTED]. The proper FAP OI amount is \$ [REDACTED]. Respondent points out further that the FAP OI in this case was the result of a department or agency error rather than a client error. Respondent is correct that the FAP OI was the result of a department or agency error. However, a review of the record shows that the assigned ALJ did not find otherwise.

Following a review of the entire record, the ALJ's reference to "\$ [REDACTED] in Findings of Fact #3 is clearly a typographical error as it should indicate \$ [REDACTED]. However, the undersigned finds that the typographical/mathematical error did not affect the Respondent's substantial rights as it did not change the determination that Respondent received an OI. The only distinction was that the ALJ's mathematical formula used to reach the conclusion in the decision contained a minor error. Either way, Respondent received a FAP OI in the amount of \$ [REDACTED] and the Department may recoup this OI even though it was caused by a Department error.

Accordingly, the ALJ Hearing Decision under Registration Number 14-17893 is AFFIRMED with the exception that Findings of Fact paragraph number 3 should be changed from \$ [REDACTED] to \$ [REDACTED].

IT IS THEREFORE ORDERED that:

The Administrative Law Judge's May 4, 2015 Hearing Decision that Respondent received a FAP OI due to Department error is **AFFIRMED**. However, the FAP OI amount that was received by Respondent and may be recouped by the Department is \$ [REDACTED]

IT IS SO ORDERED.



C. Adam Purnell
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Mailed: December 2, 2015

CAP/las

NOTICE: The law provides that within 30 days of receipt of the this Decision, the Claimant may appeal it to the circuit court for the county in which he/she lives or the circuit court in Ingham County.

cc:

