

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

IN THE MATTER OF:

██████████
██████████
██████████

Reg. No.: 15-001011
Issue No.: 3006
Case No.: ██████████
Hearing Date: March 30, 2015
County: Muskegon

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

HEARING DECISION

Upon the request for a hearing by the Department of Health and Human Services (Department), this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9, and in accordance with Titles 7, 42 and 45 of the Code of Federal Regulation (CFR), particularly 7 CFR 273.16 and 45 CFR 235.110; and with Mich Admin Code, R 400.3130 and 400.3178. After due notice, a three way telephone hearing was held on March 30, 2015, from Detroit, Michigan. The Department was represented by ██████ ██████, Recoupment Specialist and ██████ ██████, Family Independence Manager. Participants on behalf of Respondent included ██████████.

ISSUE

Did Respondent receive an OI 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. Respondent was a recipient of FAP benefits from the Department.
2. On January 13, 2015, the Department sent Respondent a Notice of Overissuance alleging that she received an OI of FAP benefits totaling \$4441 for the period from August 1, 2011, to September 30, 2012, due to the client's error. (Exhibit A, p. 82)
3. On January 13, 2015, the Department sent Respondent a Notice of Overissuance alleging that she received an OI of FAP benefits totaling \$462 for the period from October 1, 2011, to November 30, 2011, due to agency error. (Exhibit A, p. 88)

4. On January 27, 2015, Respondent filed a hearing request disputing the Department's actions.

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), and Department of Health and Human Services Reference Tables Manual (RFT).

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 to .3015.

In this case, the Department alleges that Respondent received a \$4441 client error caused OI in FAP benefits from August 1, 2011, to September 30, 2011, and from February 1, 2012, to September 30, 2012, because she failed to timely report employment and income for herself and her husband, [REDACTED]. The Department also alleges that Respondent failed to report her unearned income from Unemployment Compensation Benefits (UCB) during this time period. The Department further alleges that from October 1, 2011, to November 30, 2011, Respondent received a \$462 agency error caused OI in FAP benefits because the Department failed to budget Respondent's employment after it was reported.

Clients must report changes in circumstances, such as changes in income or employment that potentially affect eligibility or benefit amount within 10 days of receiving the first payment reflecting the change. BAM 105 (October 2013), p.7. The Department provided Respondent's June 16, 2013, signed assistance application on which she acknowledges the rights and responsibilities to report changes. When a client group receives more benefits than they are entitled to receive, the Department must attempt to recoup the OI. BAM 700 (May 2014), p. 1. A client error OI occurs when the client received more benefits than they were entitled to because the client gave incorrect or inaccurate information to the Department. BAM 700, p.6. An agency error OI is caused by incorrect actions by the Department, including delayed or no action, which result in the client receiving more benefits than they were entitled to receive. BAM 700, p.4. The amount of the overissuance is the benefit amount the group actually received minus the amount the group was eligible to receive. BAM 715 (July 2014), p. 6; BAM 705 (July 2014), p. 6.

With respect to the client error OI, the Department determined that from August 1, 2011, to September 30, 2011, and from February 1, 2012, to September 30, 2012,

Respondent was issued \$6057 in FAP benefits by the State of Michigan, and the Department alleges that Respondent was entitled to \$1616 in such benefits during this time period, resulting in an OI of FAP benefits of \$4441. In support of its case, the Department presented documentation such as verification of employment and pay details to establish that Respondent was employed at [REDACTED], [REDACTED], and that she received UCB income during the OI period that was not timely reported. The Department also presented evidence that [REDACTED] was employed with [REDACTED] that was also not timely reported.

The Department also presented FAP OI Budgets for each month showing how the Department calculated the OI. A review of the budgets provided, Department policy and the verification of employment information presented by the Department, shows that when Respondent's unreported earned income and unearned income from UCB as well as [REDACTED] unreported earned income is included in the calculation of the benefits, the group was eligible to receive \$1616 in FAP benefits from August 1, 2011, to September 30, 2011, and from February 1, 2012, to September 30, 2012.

Thus, the Department is entitled to recoup or collect from Respondent \$4441, the difference between the \$6057 in FAP benefits actually issued to her and the \$1616 in FAP benefits she was eligible to receive.

With respect to the agency error OI, the Department stated that after Respondent reported her employment with [REDACTED], the Department failed to include the income in the calculation of her FAP benefits, which resulted in an OI from October 1, 2011, to November 30, 2011. The Department determined that Respondent was issued \$1502 in FAP benefits by the State of Michigan, and the Department alleges that Respondent was entitled to \$1040 in such benefits during this time period, resulting in an OI of FAP benefits of \$462.

The Department presented FAP OI Budgets for October 2011 and November 2011 showing how the Department calculated the OI. A review of the budgets provided, Department policy and the verification of employment information presented by the Department, shows that when Respondent's earned income from [REDACTED] is included in the calculation of the benefits, the group was eligible to receive \$1040 in FAP benefits.

Thus, the Department is entitled to recoup or collect from Respondent \$462, the difference between the \$1502 in FAP benefits actually issued to her and the \$1040 in FAP benefits she was eligible to receive.

At the hearing, Respondent testified that she reported all of her group member's employment, income and unearned income to the Department, however, could not recall the exact date and did not provide any documentary evidence in support of her testimony.

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that the Department **did** establish a FAP benefit OI to Respondent totaling \$4903.

DECISION AND ORDER

Accordingly, the Department is AFFIRMED.

The Department is ORDERED to initiate collection procedures for a \$4903 OI in accordance with Department policy.



Zainab Baydoun
Administrative Law Judge
For Nick Lyon, Director
Department of Health and Human Services

Date Signed: **4/27/2015**

Date Mailed: **4/27/2015**

ZB / tlf

NOTICE OF APPEAL: The law provides that within 30 days of receipt of the above Hearing Decision, the Respondent may appeal it to the circuit court for the county in which he/she lives or the circuit court in Ingham County. 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 the Michigan Administrative Hearing System (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.

