

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

IN THE MATTER OF:

████████████████████
████████████████████
████████████████████

Reg. No.: 15-001097
Issue No.: 3006
Case No.: ██████████
Hearing Date: April 9, 2015
County: WAYNE-DISTRICT 31
(GRANDMONT)

ADMINISTRATIVE LAW JUDGE: Eric Feldman

HEARING DECISION

Upon a hearing request by the Department of Human Services (Department) to establish an overissuance (OI) of benefits to Respondent, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9, 400.43a, and 24.201, *et seq.*, and Mich Admin Code, R 400.941, and in accordance with 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, a three-way telephone hearing was held on April 9, 2015, from Detroit, Michigan. Participants on behalf of the Department included ██████████ ██████████, Recoupment Specialist. Respondent did not appear. This matter having been initiated by the Department and due notice having been provided to Respondent, the hearing was held in Respondent's absence in accordance with Department of Human Services Bridges Administrative Manual (BAM) 725 (July 2014), pp. 16-17.

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 December 30, 2014, the Department sent Respondent a Notice of Overissuance (OI notice) informing her of a FAP overissuance (OI) for the period of July 1, 2012 to October 31, 2012, due to agency error. See Exhibit 1, pp. 42-47. The OI notice also indicated that the OI balance was ██████████. See Exhibit 1, p. 42.

3. On January 27, 2015, Respondent filed a hearing request, protesting the Department's action. See Exhibit 1, p. 3.
4. On January 27, 2015, DHS requested a debt collection hearing.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), and Department of Human Services Reference Tables Manual (RFT).

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food Stamp Act of 1977, 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 Family Independence Agency) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001 to .3015.

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. The amount of the OI is the benefit amount the group or provider actually received minus the amount the group was eligible to receive. BAM 705 (July 2014), p. 6.

An agency error is caused by incorrect actions (including delayed or no action) by the Department of Human Services (DHS) staff or department processes. BAM 705, p. 1. Some examples are:

- Available information was not used or was used incorrectly.
- Policy was misapplied.
- Action by local or central office staff was delayed.
- Computer errors occurred.
- Information was not shared between department divisions such as services staff.
- Data exchange reports were not acted upon timely (Wage Match, New Hires, BENDEX, etc.).

BAM 705, p. 1. If unable to identify the type record it as an agency error. BAM 705, p. 1.

In this case, the Department alleges that Respondent received an OI for her FAP benefits (agency error) because the Department failed to budget her and an additional group member's earned income.

Clients must report changes in circumstance that potentially affect eligibility or benefit amount. BAM 105 (May 2012), p. 7. Changes must be reported within 10 days of receiving the first payment reflecting the change. BAM 105, p. 7.

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, p. 7.

First, the Department presented verification of Respondent's and the additional group member's employment income. See Exhibit 1, pp. 26-38.

Second, the Department presented Respondent's semi-annual contact report (semi-annual) dated December 2, 2014. See Exhibit 1, pp. 39-40. The Department also presented Respondent's case comments – summary. See Exhibit 1, p. 41.

Third, the Department presented OI budgets for the period of July 2012 to October 2012. See Exhibit 1, pp. 4 and 11-18. Monthly budgets were provided for the FAP programs using the employers' verification. See Exhibit 1, pp. 11-18 and 26-38. A review of the OI budgets found them to be improperly calculated. The Department failed to provide Respondent and the additional group member with the 20 percent earned income deduction on their earnings. The Department budgets the entire amount of earned and unearned countable income. BEM 550 (February 2012), p. 1. The gross countable earned income is reduced by a 20 percent earned income deduction. BEM 550, p. 1. For client error overissuances (OIs) due, at least in part, to failure to report earnings, the Department does not allow the 20 percent earned income deduction on the unreported earnings. BAM 715 (July 2014), p. 8. However, for agency error OIs, the policy to exclude the 20 percent earned income deduction is not applicable. See BAM 705, pp. 1-12. Respondent's case only involves an OI amount based on agency error for the period of July 2012 to October 2012. A review of each OI budget found that the Department failed to apply the 20 percent earned income deduction. See Exhibit 1, pp. 11-18.

Based on the foregoing information and evidence, the Department did not satisfy its burden of showing that it acted in accordance with Department policy when it failed to properly establish an OI amount for the FAP benefits. As stated above, the Department failed to apply the 20 percent earned income deduction due to this case being an agency error, rather than a client error. See BAM 715, p. 8 and BEM 550, p. 1. As

such, the Department failed to establish that it properly calculated the OI amount in accordance with Department policy.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that the Department did not establish a FAP benefit OI to Respondent totaling [REDACTED]

Accordingly, the Department is REVERSED.


Eric Feldman
Administrative Law Judge
for Nick Lyon, Interim Director
Department of Human Services

Date Signed: **4/10/2015**

Date Mailed: **4/10/2015**

EJF/tm

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 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.

