

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 15-001470
Issue No.: 3006
Case No.: [REDACTED]
Hearing Date: April 01, 2015
County: Branch

ADMINISTRATIVE LAW JUDGE: Carmen G. Fahie

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 telephone hearing was held on Wednesday, April 1, 2015, from Lansing, Michigan. The Department was represented by [REDACTED], Recoupment Specialist and Teresa Sharrar, Eligibility Specialist.

Participants on behalf of Respondent included the Respondent.

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. The Respondent was a recipient of FAP benefits from the Department.
2. The Department alleges Respondent received a FAP OI during the period May 1, 2014 through July 31, 2014 and September 1, 2014 through November 30, 2014, due to Respondent's error.
3. The Department alleges that Respondent received a \$ [REDACTED] OI that is still due and owing to the Department. Department Exhibit 11-32.

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.

Additionally, The Respondent was a recipient of FAP benefits from the Department. On January 31, 2014, the Claimant was sent a notice informing him that he needed to report if his household income exceeded the simplified reporting limit of \$ [REDACTED] by the 10th of the following month. Department Exhibit 43-51. The Respondent failed to report increases in his earned income that exceeded the FAP simplified limit. Department Exhibit 33-42. As a result, the Department alleges Respondent received a FAP OI during the period May 1, 2014 through July 31, 2014 and September 1, 2014, due to Respondent's error. The Department alleges that Respondent received a \$ [REDACTED] OI that is still due and owing to the Department. Department Exhibit 11-32. BAM 105, 220, 700, 705, 725. BEM 212, 230b, 245, and 501.

During the hearing, the Respondent stated that he did report to his caseworker that he had increased earnings, but nothing was ever done about it. The record does reflect that Respondent did spend the overissued FAP benefits. Since the amount of \$ [REDACTED] is over the limit due to Agency error, the Respondent still has to pay back the overissued benefits. This was not presented by the Department as an intentional program violation, but as a debt collection. In addition, the Respondent presented no proof or evidence that he had informed the department about his increase in earned income.

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 \$ [REDACTED] Department Exhibit 1-59.

DECISION AND ORDER

Accordingly, the Department is **AFFIRMED**.

The Department is **ORDERED** to initiate collection procedures for a \$ [REDACTED] OI in accordance with Department policy.



Carmen G. Fahie
Administrative Law Judge
For Nick Lyon, Director
Department of Health and Human Services

Date Signed: **4/30/2015**

Date Mailed: **4/30/2015**

CGF/las

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.

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:

