

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 15-001857
Issue No.: 3006
Case No.: [REDACTED]
Hearing Date: March 05, 2015
County: Calhoun (District 21)

ADMINISTRATIVE LAW JUDGE: Darryl Johnson

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, a telephone hearing was held on March 5, 2015, from Lansing, Michigan. Participants on behalf of Claimant included Claimant and her husband, [REDACTED]. Participants on behalf of the Department of Human Services (Department) included Recoupment Specialist [REDACTED].

ISSUE

Did Claimant receive an overissuance of program benefits that the Department is entitled 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. Claimant received Food Assistance Program (FAP) benefits.
2. The Department determined that Claimant received a FAP overissuance in the amount of \$ [REDACTED] during the period of May 1, 2014, through December 31, 2014.
3. The overissuance was due to Department error.
4. On January 23, 2015, the Department sent notice of the overissuance and a repayment agreement to Claimant.
5. On February 9, 2015, Claimant filed a hearing request, protesting the Department's recoupment action.

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.

The Department presented evidence that Claimant reported on May 23, 2014, that her husband was gainfully employed. The Department did not verify the self-employment income. Nor did the Department include the husband's earnings in the FAP budget. Claimant was approved for FAP, based upon her daughter's unearned income of \$ [REDACTED] per month. The FAP allotment was also calculated based upon a group size of four. In June 2014, Claimant's son moved out of the home. That change was timely reported to the Department, but no adjustment was made to her FAP.

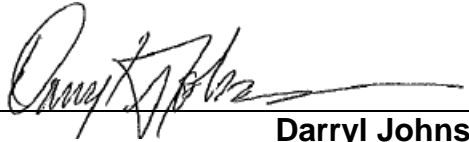
The Department presented budgets (Exhibit A Pages 6-23) explaining how it calculated the Overissuance (OI) of FAP. It also provided evidence regarding the group's income (Exhibit A Pages 24-28) for the period at issue. The OI is summarized at page 4 of Exhibit A. The Department has presented sufficient evidence to support a finding that Claimant received an OI of \$ [REDACTED]

As explained in BAM 705 (7/1/14) at page 1, which states "An **agency error** is caused by incorrect actions (including delayed or no action) by the Department of Human Services (DHS) staff or department processes." An example of an agency error is when "Available information was not used or was used incorrectly." When there is an error, either because of the agency or the client, the Department is to initiate recoupment. BAM 705 at 10.

Based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, the Administrative Law Judge concludes that Claimant received an overissuance for FAP benefits in the amount of \$ [REDACTED] that the Department is entitled to recoup.

DECISION AND ORDER

Accordingly, the Department's action seeking recoupment is **AFFIRMED**.



Darryl Johnson
Administrative Law Judge
for Nick Lyon, Interim Director
Department of Human Services

Date Signed: **3/6/2015**

Date Mailed: **3/6/2015**

DJ/jaf

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.

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:

