

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

IN THE MATTER OF:

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

Reg. No.: 15-003240
Issue No.: 3006
Case No.: ██████████
Hearing Date: April 06, 2015
County: WAYNE-DISTRICT 31
(GRANDMONT)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 telephone hearing was held on April 6, 2015, from Detroit, Michigan. Participants on behalf of the Department included ██████████ ██████████, Recoupment 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. Respondent was a recipient of FAP benefits from the Department.
2. The Department alleges Respondent received a FAP OI during the period March 1, 2014 through April 30, 2014 due to Department's error. The Department further alleges that Respondent used her Michigan FAP benefits in Georgia for more than 30 consecutive days. Exhibit 2.
3. The Department alleges that Respondent received a \$378 OI that is still due and owing to the Department. Exhibit 2.

4. A review of the EBT history indicates that the Claimant returned to Michigan on April 7, 2014 and used her FAP benefits ongoing in Michigan thereafter. Exhibit 1, p. 14-16.
5. The Respondent requested a hearing on March 2, 2015 protesting the Department's 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.

Additionally, in this case the Respondent credibly testified at the hearing that when she was out of the State of Michigan she was visiting with her sister in Georgia. The Department alleges that during the period January 18, 2014 through April 7, 2014 the Respondent used her FAP benefits exclusively in the State of Georgia. The Department seeks to recoup an overissuance of \$378 for the period March 1, 2014 through April 30, 2014. Exhibit 2, p. 1.

During prior periods February 2013 through September 2014, not part of the alleged overissuance period, the Respondent used her FAP benefits during this time period in Georgia with interruptions for returns to Michigan. By way of example, the Claimant used her FAP benefits in Michigan in January 2013, and in February 2013 in the State of Georgia, and then in March 2013 the Respondent used her benefits in Michigan.

Upon further review of the evidence for the overissuance period in question (March 1, 2014 through April 30, 2014) it is determined that the Department is not entitled to recoup FAP benefits for April 2014 as the Claimant returned to Michigan and used her benefits from April 7, 2014 ongoing in Michigan. Thus the overissuance amount of \$189 for FAP benefits received in April 2014 should not have been included in the total overissuance amount and is in error. Exhibit 2. This being the case, the April 2014 FAP benefits must be subtracted from the total and when this is done the correct the overissuance amount is \$189 and is below the threshold required to seek recoupment.

As this case involves Agency Error the following threshold of \$250 in overissuance the Department seeks to recoup must be present in order for the Department to pursue an overissuance. BAM 705 provides:

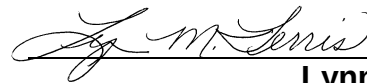
Agency error overissuances are not pursued if the estimated amount is less than \$250 per program. BAM 705, (July 1, 2014) p. 1.

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that the Department did not establish that it met the OI threshold amount of \$250 in this case and therefore is not entitled to pursue an overissuance of the Respondent's FAP benefits.

DECISION AND ORDER

Accordingly, the Department is REVERSED.

The Department is ORDERED to terminate any collection procedures for a \$378 OI in accordance with Department policy and this Decision.



Lynn M. Ferris
Administrative Law Judge
for Nick Lyon, Interim Director
Department of Human Services

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

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

LMF / cl

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:

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:

If submitted by mail, the written request must be addressed as follows:

[illegible]