

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 15-003729
Issue No.: 3006
Case No.: [REDACTED]
Hearing Date: April 23, 2015
County: Calhoun

ADMINISTRATIVE LAW JUDGE: Vicki Armstrong

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; and Mich Admin Code, R 792.11002. After due notice, an in-person hearing was held on April 23, 2013, in Battle Creek, Michigan. Claimant failed to attend. Participants on behalf of the Department of Health and Human Services (Department) included Recoupment Specialist [REDACTED].

ISSUE

Did the Department properly find Respondent received an overissuance of \$ [REDACTED] 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 mailed Respondent a Notice of Case Action on August 12, 2011, informing Respondent he had been approved for FAP benefits for \$ [REDACTED] a month from August 10, 2011, through August 31, 2011, and \$ [REDACTED] a month from September 1, 2011, through July 31, 2012. (Dept. Ex A, pp 13-18).
3. On May 14, 2012, the Department was notified through Wage Match Client Notice that Respondent's wife was employed from December 1, 2011, through December 23, 2011. (Dept. Ex A, pp 24-25).
4. Respondent received \$ [REDACTED] a month during the period November 1, 2011, through December 31, 2011. Based on Respondent's wife's earnings, Respondent was only entitled to \$ [REDACTED] for the time period. (Dept. Ex A, p 8).
5. On March 6, 2015, and March 8, 2015, Respondent had a total of \$ [REDACTED] in FAP benefits expunged for not being used within a year. (Dept. Ex A, p 2).

6. The Department alleges that a total of \$ [REDACTED] is still due and owing to the Department because \$ [REDACTED] has been expunged.

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

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-.3011.

Departmental policy, BAM 725, Collection Actions, states that when the client group receives more benefits than entitled to receive, DHS must attempt to recoup the overissuance. BAM 725, p 1 (7/1/2014). Repayment of an overissuance is the responsibility of anyone who was an eligible, disqualified, or other adult in the program group at the time the overissuance occurred. BAM 725, p 1. Bridges will collect from all adults who were a member of the case. BAM 725, p 1. Overissuances on active programs are repaid by lump sum cash payments, monthly cash payments (when court ordered), and administrative recoupment (benefit reduction). BAM 725, p 3. Overissuance balances on inactive cases must be repaid by lump sum or monthly cash payments unless collection is suspended. BAM 725, p 3.

The evidence shows Respondent worked at Employment Group from December 1, 2011, through December 23, 2011. There is no evidence Respondent reported his wife's income to the Department.

The FAP Issuance Summary shows Respondent received \$ [REDACTED] a month for November and December of 2011. Had Respondent properly reported his wife's income, he would have been eligible to receive \$ [REDACTED] for November and December of 2011. This resulted in a \$ [REDACTED] overissuance.

The Recoupment Specialist credibly testified that while this overissuance was pending, Respondent had some benefits expunged for not being used within a year. Expunged benefits are automatically put towards over-issuances. The expunged \$ [REDACTED] benefit was put toward the \$ [REDACTED] overissuance which created an over-issuance balance of \$ [REDACTED]

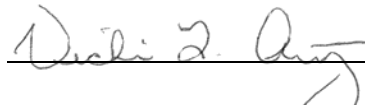
The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds the Department established Respondent received more benefits than entitled to receive and the Department is entitled to recoup the \$ [REDACTED] FAP overissuance.

DECISION AND ORDER

Accordingly, the Department is **AFFIRMED**.

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

It is SO ORDERED.



Vicki Armstrong
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **5/5/2015**

Date Mailed: **5/5/2015**

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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 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 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:

