

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

IN THE MATTER OF:



MAHS Reg. No.: 15-007314
Issue No.: 3006
Agency Case No.: [REDACTED]
Hearing Date: October 20, 2015
County: GRATIOT

ADMINISTRATIVE LAW JUDGE: Kevin Scully

HEARING DECISION

Following Respondent'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, telephone hearing was held on October 20, 2015, from Lansing, Michigan. Participants on behalf of the Department of Health and Human Services (Department) included [REDACTED] (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 Health and Human Services Bridges Administrative Manual (BAM) 725 (July 1, 2014), p 8.

ISSUE

Did the Department properly determine that the Respondent received an overissuance 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. On July 5, 2010, the Department received the Respondent's Food Assistance Program (FAP) application.
2. On May 24, 2013, the Department sent the Respondent a Simplified Six-Month Review (DHS-1045) instructing her to report changes to earned income by more than \$ [REDACTED] from the last 30 days.
3. On May 24, 2013, the Department approved continuing Food Assistance Program (FAP) benefits for a group of four with a monthly allotment of

\$ [REDACTED] as of June 1, 2013, based on gross monthly earned income of \$ [REDACTED].

4. The Respondent received earned income from employment in the gross amount of \$ [REDACTED] and \$ [REDACTED], in paychecks received in June of 2013.
5. The Respondent received earned income from employment in the gross amounts of \$ [REDACTED] and \$ [REDACTED], in paychecks received in October of 2013.
6. The Respondent received earned income from employment in the gross amounts of \$ [REDACTED] and \$ [REDACTED], in paychecks received in September of 2013.
7. From September 1, 2013, through October 31, 2013, the Respondent received Food Assistance Program (FAP) benefits totaling \$ [REDACTED].
8. The Department closed the Respondent's Food Assistance Program (FAP) benefits as of November 1, 2013, for failure to provide verification of her income in a timely manner.
9. On November 12, 2013, the Department received verification of the Respondent's actual income from September 1, 2013, through October 31, 2013.
10. On May 7, 2015, the Department received the Respondent's request for a hearing.

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.

When a client group receives more benefits than it is entitled to receive, the Department must attempt to recoup the overissuance. An agency error is caused by incorrect action (including delayed or no action) by Department staff or Department processes. A client

error occurs when the client received more benefits than they were entitled to because the client gave incorrect or incomplete information to the department. Client and agency errors are not pursued if the estimated amount is less than \$ [REDACTED] per program. Department of Health and Human Services Bridges Administrative Manual (BAM) 700 (May 1, 2014), pp 1-9.

Overissuance balances on inactive cases must be repaid by lump-sum or monthly cash payments unless collection is suspended. Department of Health and Human Services Bridges Administrative Manual (BAM) 725 (July 1, 2014), p 8.

On July 5, 2010, the Department received the Respondent's FAP application where she acknowledged the requirements of receiving FAP benefits. On May 24, 2013, the Department approved the Respondent for continuing FAP benefits of \$ [REDACTED] per month based on \$ [REDACTED] gross monthly earnings from employment. On May 24, 2013, the Department sent the Respondent a Simplified Six-Month Review (DHS-1045) instructing her to report changes to earned income by more than \$ [REDACTED] from the last 30 days.

The Respondent received earned income from employment in the gross monthly amount of \$ [REDACTED] in June of 2013. This was an increase of earned income of \$ [REDACTED] over her prior reported monthly earnings. If this increase of earnings had been reported to the Department, her FAP benefits would have been affected no later than September 1, 2013.

The Respondent received earned income from employment in the gross monthly amount of \$ [REDACTED] in September of 2013, but the gross monthly income limit to receive FAP benefits was \$ [REDACTED]. Department of Health and Human Services Reference Table Manual (RFT) 250 (October 1, 2012), p 1. The Respondent received earned income from employment in the gross monthly amount of \$ [REDACTED] in October of 2013, but the gross monthly income limit to receive FAP benefits was \$ [REDACTED]. Department of Health and Human Services Reference Table Manual (RFT) 250 (October 1, 2013), p 1. These income figures were determined from the Respondent's paycheck stubs the Department received on November 12, 2013.

This Administrative Law Judge finds that due to the Respondent's error, her increase in income from May of 2013, was not reported to the Department in a timely manner. As a result, the Respondent received FAP benefits totaling \$ [REDACTED] from September 1, 2013, through October 31, 2013, when she was only eligible for \$ [REDACTED]. Therefore, the Respondent received an overissuance of FAP benefits totaling \$ [REDACTED].

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department acted in accordance with Department policy when it determined that the Respondent received a \$ [REDACTED] overissuance of Food Assistance Program (FAP) benefits that the Department is now required to recoup.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.



Kevin Scully
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **11/10/2015**

Date Mailed: **11/10/2015**

KS/■

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:

