

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 15-008251
Issue No.: 3008
Case No.: [REDACTED]
Hearing Date: July 08, 2015
County: Newaygo

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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, telephone hearing was held on July 08, 2015, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of the Department included [REDACTED], recoupment specialist.

ISSUE

Did the Department of Health and Human Services (Department) properly determine that the Claimant has 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. The Claimant is an ongoing Food Assistance Program (FAP) recipient.
2. On June 4, 2013, the Claimant reported to the Department that she was not employed.
3. On June 28, 2013, the Department notified the Claimant that she was approved for a \$ [REDACTED] monthly allotment of Food Assistance Program (FAP), which was based on the group receiving no earned income.
4. The Claimant was employed and received earned income from October 4, 2013, through June 27, 2014.
5. From November 1, 2013, through May 31, 2014, the Claimant received Food Assistance Program (FAP) benefits totaling \$ [REDACTED].

6. On May 21, 2015, the Department sent the Claimant a Notice of Overissuance (DHS-4358-A) with notice that it intended to recoup \$ [REDACTED] of Food Assistance Program (FAP) benefits.
7. On May 29, 2015, the Department received the Claimant's request for a hearing protesting the recoupment of Food Assistance Program (FAP) benefits.

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. Department of Human Services Bridges Administrative Manual (BAM) 700 (May 1, 2014), p 1.

The Claimant was an ongoing FAP recipient when the Department reviewed her eligibility to receive continuing benefits. The Claimant informed the Department that she was no longer employed on June 4, 2013. On June 28, The Department notified the Claimant that she was approved for increased FAP benefits with a \$ [REDACTED] monthly allotment.

The Claimant was employed and received earned income from November 1, 2013, through May 31, 2014. This income was not considered by the Department when it determined that the Claimant was eligible for FAP benefits totaling \$ [REDACTED] during that period. If the Department had considered this earned income, the Claimant would have been eligible for \$ [REDACTED] of FAP benefits during that period. As a result, the Claimant received a \$ [REDACTED] overissuance.

The Claimant testified that she notified the Department that she was employed and submitted verification of her income.

Based on the evidence and testimony available during the hearing, the Claimant has failed to establish that she was eligible for more than \$ [REDACTED] of FAP benefits from November 1, 2013, through May 31, 2014. 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 has established that the Claimant 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: **7/9/2015**

Date Mailed: **7/9/2015**

KS/las

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:

