

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 15-008429
Issue No.: 3008
Case No.: [REDACTED]
Hearing Date: July 09, 2015
County: Branch

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 09, 2015, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED], and his mother [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 received an overissuance of Food Assistance Program (FAP) benefits that the Department is now required 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. The Claimant submitted an application for Food Assistance Program (FAP) benefits on October 30, 2014.
2. The Claimant was an ongoing Food Assistance Program (FAP) recipient from October 1, 2014, through March 31, 2015.
3. The Claimant was employed and received earned income from October 9, 2014, through March 6, 2015.
4. On May 5, 2015, the Department sent the Claimant a Notice of Overissuance (DHS-4358-B) with notice of a \$ [REDACTED] overissuance of Food Assistance Program (FAP) benefits.

5. On May 18, 2015, the Department received the Claimant's request for a hearing protesting the recoupment of his 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, DHS must attempt to recoup the overissuance. Department of Human Services Bridges Administrative Manual (BAM) 700 (May 1, 2014), p 1.

The Claimant submitted an application for FAP benefits on October 30, 2014, and reported to the Department that he was not employed. The Department submitted substantial evidence showing that the Claimant started new employment on October 9, 2014, and received a paycheck on October 20, 2014. The Claimant's employment continued through March 6, 2015, but this income was not used to determine his eligibility for FAP benefits. As a result, the Claimant received FAP benefits from October 1, 2014, through March 31, 2015, totaling \$[REDACTED] but would have been eligible for only \$[REDACTED] if his earned income had been considered. Therefore, the Claimant received an overissuance of \$[REDACTED].

The Claimant testified that he did report his employment to the Department. The Claimant testified that he requested that the Department close his FAP benefits but that they were not closed.


This Administrative Law Judge finds that the Claimant failed to establish that he reported his employment to the Department. The evidence presented on the record supports a finding that the Claimant was aware that he would be receiving earned income when he applied for FAP benefits. No evidence was presented showing that the Claimant reported his earned income to the Department. Despite the Claimant's testimony that he requested that the Department close his FAP benefits, he did not dispute that he continued to use those benefits as they were issued.

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 Claimant received an overissuance of FAP benefits as a result of his failure to report earned income to the

Department and the Department is required to recoup the benefits he was not eligible to receive.

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: **7/10/2015**

Date Mailed: **7/10/2015**

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:

