



RICK SNYDER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN ADMINISTRATIVE HEARING SYSTEM  
Christopher Seppanen  
Executive Director

MIKE ZIMMER  
DIRECTOR



Date Mailed: April 21, 2016  
MAHS Docket No.: 15-008926  
Agency No.: [REDACTED]  
Petitioner:  
Respondent: [REDACTED]

**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 April 14, 2016, 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 (October 1, 2015), 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 August 1, 2011, the Department received the Respondent's Food Assistance Program (FAP) application where she reported being temporarily laid off from her seasonal employment. Exhibit A, pp 2-20.
2. The Respondent was employed and received earned income from September 16, 2011, through April 27, 2012. Exhibit A, pp 21-22.

3. From November 1, 2011, through May 1, 2012, the Respondent was an active Food Assistance Program (FAP) recipient receiving a total of \$ [REDACTED] of benefits. Exhibit A, p 27.
4. Due to Department error, the Respondent's income was not applied towards her eligibility for Food Assistance Program (FAP) benefits until June 1, 2012. Exhibit A, pp 28-42.
5. The Petitioner would have been eligible for a total of \$ [REDACTED] of Food Assistance Program (FAP) benefits from November 1, 2011, through May 1, 2012, if her earned income had been applied towards her eligibility. Exhibit A, pp 28-42.
6. On May 11, 2015, the Department sent the Respondent a Notice of Overissuance (DHS-4358) informing her of its intent to recoup \$ [REDACTED] of Food Assistance Program (FAP) benefits. Exhibit A, p 44.
7. The Department received the Respondent's request for a hearing on June 8, 2015. Exhibit A, p 1.

### **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 \$250 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 August 1, 2011, the Department received the Respondent's application for FAP benefits where she reported being laid off from her employment. The Respondent reported returning to work but due to Department error, her earned income was not used to determine her eligibility for continuing FAP benefits. If the Respondent's earned income had been handled properly her eligibility for FAP benefits would have been affected no later than November 1, 2011.

From November 1, 2011, through May 1, 2012, the Respondent received FAP benefits totaling \$ [REDACTED]. If the Respondent's earned income has been applied towards her eligibility for FAP benefits during that period, she would have been eligible for only \$ [REDACTED]. Therefore, the Respondent received a \$ [REDACTED] overissuance of FAP benefits due to Department error.

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that the Department did establish a Food Assistance Program (FAP) benefit OI to Respondent totaling \$ [REDACTED].

### **DECISION AND ORDER**

Accordingly, the Department's decision is **AFFIRMED**.

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

KS/las

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

**NOTICE OF APPEAL:** A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088; 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

**DHHS**

[REDACTED]

[REDACTED]

**Respondent**

[REDACTED]