

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

IN THE MATTER OF:

[REDACTED]

MAHS Reg. No.: 15-014273
Issue No.: 3006
Agency Case No.: [REDACTED]
Hearing Date: October 20, 2015
County: KENT-DISTRICT 1
(FRANKLIN)

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].

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 November 15, 2010, the Department received the Respondent's application for Food Assistance Program (FAP) benefits where she acknowledged the requirements of receiving FAP benefits.
2. The Respondent received Food Assistance Program (FAP) benefits from September 1, 2011, through September 30, 2011.
3. The Respondent was employed and received earned income from July 1, 2011, through September 23, 2011.

4. On January 15, 2015, the Department sent the Respondent a Notice of Overissuance (DHS-4358-A) notifying her of a \$ [REDACTED] overissuance of Food Assistance Program (FAP) benefits.
5. On July 17, 2015, the Department sent the Respondent a Treasury Offset Program Notice (DHS-289) notifying her of a \$ [REDACTED] liability amount.
6. On July 27, 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 \$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 November 15, 2010, the Department received the Respondent's application for FAP benefits where she acknowledged the requirements of receiving FAP benefits. The Respondent received FAP benefits totaling \$ [REDACTED] in September of 2011. The Respondent was employed from July 1, 2011, through September 23, 2011, at a rate of \$ [REDACTED] per hour for 40 to 50 hours per week. The Respondent had reported that she was working 10 hours per week and failed to report her increase in earned income due to her error. If the Respondent had reported her increase of income in July of 2011, the Department would have applied this increase no later than September 1, 2011. If the

Respondent had reported her increase of income to the Department, she would have only been eligible for \$ [REDACTED] in September of 2011. Therefore, the Respondent received a \$ [REDACTED] overissuance of FAP benefits.

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 due to client error that the Department is required to recoup.

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.



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 [REDACTED]

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:

