

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

IN THE MATTER OF:

████████████████████
████████████████████
████████████████████

Reg. No.: 15-014997
Issue No.: 3007
Case No.: ██████████
Hearing Date: October 08, 2015
County: Wayne-District 57 (Conner)

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on October 8, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████, Family Independence Manager and ██████████, Eligibility Specialist.

ISSUE

Did the Department properly process Claimant's 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. Claimant was an ongoing recipient of FAP benefits. (Exhibit A)
2. On August 2, 2015, Claimant's Electronic Benefit Transfer (EBT) card was used to make purchases at ██████████. (Exhibit C)
3. Claimant asserted that her FAP benefits were stolen.
4. On August 12, 2015, Claimant requested a hearing disputing the Department's actions with respect to her 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.

In this case, Claimant was an ongoing recipient of FAP benefits. On August 12, 2015, Claimant requested a hearing asserting that on August 2, 2015, her Electronic Benefit Transfer (EBT) FAP benefits were fraudulently used in the amount of around \$700 and disputed the Department's failure to return her stolen funds. Claimant established that she filed a police report regarding what she alleged were stolen FAP benefits and there was evidence presented that she reported the issue to the Office of Inspector General, who informed her that that it would investigate the matter. (Exhibit 1). Claimant testified that her EBT card was not lost or stolen and that she had it in her possession at the time the transactions and purchases in question were made. Claimant maintained that she had never been to the store where her card was used and that she did not provide anyone with her pin number.

At the hearing, the Department stated that after being notified by Claimant that her benefits were accessed without her consent, it gave Claimant a referral to [REDACTED] to assist her with obtaining emergency food until she received her EBT issuance for August 2015. (Exhibit B). The Department stated that it also sent Claimant a new EBT card. The Department contended that Claimant did not meet the criteria for food benefit replacement, as her situation was not one of domestic misfortune.

Department policy provides that EBT allows clients who receive FAP benefits to receive their benefits using debit card technology. Benefits are deposited electronically into a food account and clients can access their benefits by using their PIN, along with their Bridge card. BAM 401E (July 2014), p. 1. Anyone with access to both the PIN and Bridge card has access to the recipient's benefits and the PIN must be entered each time the card is used. BAM 401E, p. 5. If a Bridge card is reported lost or stolen, it will be deactivated and a new card sent to the client. The Department will only replace FAP benefits when food is destroyed in a domestic misfortune or disaster. BAM 401E, pp.6-7. Domestic misfortunes or disasters include events which occur through no fault of the client, such as fires, floods, or electrical outages. BAM 502 (July 2013), p.1. In addition, the Department will issue a supplement when the regular FAP issuance for the current

period or prior month is less than the group is eligible for, or for periods when the group was eligible but received no regular benefits. BAM 406 (July 2013), p.1.

In this case, Claimant's regular FAP issuance was deposited to her card and Claimant did not allege that she did not receive her regular benefits. Additionally, although unfortunate, Claimant's situation does not meet the criteria that would allow for FAP supplements or food benefit replacement under Department policy, and the Department's policies do not authorize the return FAP benefits that were stolen.

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 processed Claimant's FAP benefits. Claimant is encouraged to follow up with the police report filed.

DECISION AND ORDER

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



Zainab Baydoun
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **10/13/2015**

Date Mailed: **10/13/2015**

ZB / tlf

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:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]