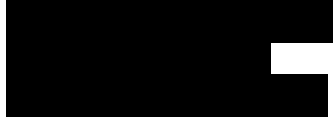


**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HEALTH AND HUMAN SERVICES**

IN THE MATTER OF:



MAHS Reg. No.: 15-015958
Issue No.: 3006
Agency Case No.: [REDACTED]
Hearing Date: October 15, 2015
County: BENZIE

ADMINISTRATIVE LAW JUDGE: Gary Heisler

HEARING DECISION

Upon a hearing request by the Department of Human Services (Department) to establish an over-issuance (OI) of benefits to Respondent, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9, 400.43a, and 24.201, *et seq.*, and Mich Admin Code, R 400.941, and in accordance with 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, a telephone hearing was held on October 15, 2015, from Lansing, Michigan. Participants on behalf of the Department included Recoupment Specialist [REDACTED]. Respondent appeared and testified.

It is noted that at the time Respondent requested a hearing, her Food Assistance Program (FAP) was closed. Recoupment Specialist [REDACTED] submitted the Hearing Summary (DHHS-3050) indicating it was a Debt Collection hearing request from the Department. Michigan Administrative Hearing System (MAHS) did not send out the required Debt Collection Notice of Hearing. The difference in consequences between a Recoupment Hearing and a Debt Collection Hearing were explained to Respondent. Respondent testified under oath, that she waived the written notice for a Debt Collection Hearing and wished to proceed with the hearing.

ISSUE

Did Respondent receive a \$ [REDACTED] Client Error over-issuance of Food Assistance Program benefits from December 1, 2014 to July 31, 2015?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Respondent was a recipient of Food Assistance Program benefits from the Department from December 1, 2014 to July 31, 2015.

2. December 1, 2014 to July 31, 2015 has been properly determined as the over-issuance period caused by this Client Error.
3. Due to Client Error of Respondent not reporting she returned to work, she received a \$ [REDACTED] over-issuance of Food Assistance Program benefits during the over-issuance period.
4. On August 27, 2015, Respondent was sent a Notice of Over-Issuance (DHS-4358).
5. On September 2, 2015, Respondent submitted a hearing request.
6. On September 14, 2015, the Department requested this Debt Establishment hearing on behalf of Respondent.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), and Department of Human Services Reference Tables Manual (RFT).

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 to .3011.

Bridges Administration Manual (BAM) 725 Collection Actions states that when the client group or CDC provider receives more benefits than entitled to receive, DHS must attempt to recoup the over-issuance. Additionally, anyone who was an eligible, disqualified, or other adult in the program group at the time the over-issuance occurred is responsible for repayment of the over-issuance.

DHHS requests a debt collection hearing when the grantee of an inactive program requests a hearing after receiving the DHS-4358B, Agency and Client Error Information and Repayment Agreement. Active recipients are afforded their hearing rights automatically, but DHHS must request hearings when the program is inactive.

The Department submitted an Assistance Application (DHS-1171) dated August 7, 2014 that Respondent signed and submitted to the Department prior to the alleged over-issuance period. On the application Respondent indicated she was laid off of work. This application is sufficient to establish that Respondent was provided the recoupment responsibilities of receiving assistance.

Respondent's hearing request states "I don't feel I owe this I turned in my proofs it's not my fault that it got lost." During this hearing Respondent asserted that she turned in everything they sent her notice she had to provide. Since the Department did not know when Respondent returned to work, they would not have sent her a notice that they needed verification that she was working again. Respondent was required to report her return to work on her own accord.

Over-issuance Period
Client/CDC Provider Error

BAM 715 Client/CDC Provider Error Over-Issuances, states that the over-issuance period begins the first month (or pay period for CDC) benefit issuance exceeds the amount allowed by policy **or** 72 months before the date it was referred to the RS, whichever is later.

To determine the first month of the over-issuance period (for over-issuances 11/97 or later) Bridges allows time for:

The client reporting period, per BAM 105.

The full standard of promptness (SOP) for change processing, per BAM 220.

The full negative action suspense period: see BAM 220, Effective Date of Change.

The over-issuance period ends the month (or pay period for CDC) before the benefit is corrected.

The error which caused this over-issuance occurred on October 17, 2014 when Respondent received her first pay check after returning to work. Applying the over-issuance period definition, the over-issuance period began December 1, 2014.


Over-issuance Amount

BAM 705 Agency Error Over-Issuances and BAM 715 Client/CDC Provider Error Over-Issuances, states the over-issuance amount is the benefit amount the group actually received minus the amount the group was eligible to receive. The Department presented a benefit summary showing that the State of Michigan issued Respondent a total of \$ [REDACTED] of Food Assistance Program (FAP) benefits during the over-issuance period. The over-issuance budgets submitted by the Department were reviewed and found to be correct. The over-issuance budgets show that Respondent was actually eligible for no Food Assistance Program (FAP) benefits. Respondent received a \$ [REDACTED] over-issuance of Food Assistance Program (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 Respondent receive a \$ [REDACTED] Client Error over-issuance of Food Assistance Program benefits from December 1, 2014 to July 31, 2015.

DECISION AND ORDER

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



Gary Heisler
Administrative Law Judge
For Nick Lyon, Director

Department of Health and Human Services

Date Signed: **10/21/2015**

Date Mailed: **10/21/2015**

GFH / 

NOTICE OF APPEAL: The law provides that within 30 days of receipt of the above Hearing Decision, the Respondent may appeal it to the circuit court for the county in which he/she lives or the circuit court in Ingham County. 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 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:

