

**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.: 15-022064
Issue No.: 3007
Agency Case No.: [REDACTED]
Hearing Date: January 13, 2016
County: Genesee-District 6

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

HEARING DECISION

Following Petitioner'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 January 13, 2016, from Lansing, Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by [REDACTED] Recoupment Specialist.

ISSUE

Did the Department properly determine that Claimant received an overissuance of Food Assistance Program (FAP) benefits due to failing to report employment income?

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 October 27, 2015, the Department sent a notice of overissuance to Claimant alleging that she received an overissuance of Food Assistance in the amount of \$ [REDACTED] during the time period from May 1, 2015, through July 31, 2015 due to client error.
2. On November 9, 2015, Claimant requested hearing disputing the overissuance due to client error.
3. Claimant left a message with her case worker [REDACTED] informing her of her daughter's employment income within 10 days of her daughter receiving employment income from [REDACTED] on April 23, 2015.

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, MDHHS must attempt to recoup the overissuance. This item explains overissuance types and standards of promptness (SOP). BAM 700

An **agency error** is caused by incorrect actions (including delayed or no action) by the Michigan Department of Health and Human Services (MDHHS) staff or department processes. BAM 705

In this case, Claimant credibly testified that she contacted her case worker [REDACTED] and left a voicemail regarding her daughter's employment income shortly after her daughter received her first paycheck on April 23, 2015. Claimant credibly testified that she left additional voicemails in the subsequent weeks that were not returned. [REDACTED] did not testify at hearing and the recoupment specialist stated at hearing that she was never contacted to confirm or deny Claimant's contention. The undersigned Administrative Law Judge finds that Claimant timely reported her daughter's income and therefore the overissuance of FAP benefits was the result of agency error. BAM 705

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 did not act in accordance with Department policy when it determined that Claimant received an overissuance due to client error. The overissuance Claimant received was due to agency error. At hearing, Claimant acknowledged that her daughter's income was not budgeted during the time period in question.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED IN PART** with respect to finding of overissuance and **REVERSED IN PART** with respect to the overissuance being deemed client error.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Correct the Department record to show that the overissuance Claimant received was agency error instead of client error.
2. Recalculate the overissuance amount pursuant to Department policy.



Aaron McClintic
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Mailed: **1/21/2016**

AM/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 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:

