

**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.: 15-019896
Issue No.: 3008
Agency Case No.: [REDACTED]
Hearing Date: January 06, 2016
County: MUSKEGON

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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. After due notice, telephone hearing was held on January 06, 2016, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] [REDACTED] [REDACTED] (Recoupment Specialist) represented the Department of Health and Human Services (Department).

ISSUE

Did the Department of Health and Human Services (Department) properly determine that the Claimant received an overissuance of Food Assistance Program (FAP) benefits that the Department is required to recoup?

FINDINGS OF FACT

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

1. The Claimant was an ongoing Food Assistance Program (FAP) recipient as a group of one from September 1, 2014, through March 31, 2015, and received benefits totaling \$ [REDACTED]
2. The Claimant receives monthly earned income from employment in the gross monthly amount of \$ [REDACTED]
3. The Claimant receives monthly Retirement, Survivors, and Disability Insurance (RSDI) in the gross monthly amount of \$ [REDACTED]
4. On October 22, 2015, the Department sent the Claimant a Notice of Overissuance (DHS-4358-A) informing her of its intent to recoup \$ [REDACTED] of Food Assistance Program (FAP) benefits due to agency error.

5. On October 30, 2015, the Department received the Claimant's request for a hearing protesting the recoupment of her Food Assistance Program (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.

All earned and unearned income available to the Claimant is countable. Earned income means income received from another person or organization or from self-employment for duties for duties that were performed for compensation or profit. Unearned income means all income that is not earned, including but not limited to funds received from the Family Independence Program (FIP), State Disability Assistance (SDA), Child Development and Care (CDC), Medicaid (MA), Social Security Benefits (RSDI/SSI), Veterans Administration (VA), Unemployment Compensation Benefits (UCB), Adult Medical Program (AMA), alimony, and child support payments. The amount counted may be more than the client actually receives because the gross amount is used prior to any deductions. Department of Human Services Bridges Eligibility Manual (BEM) 500 (July 1, 2015).

When a client group receives more benefits than it is entitled to receive, the Department must attempt to recoup the overissuance. Department of Human Services Bridges Administrative Manual (BAM) 700 (October 1, 2015), p 1.

In this case, the Claimant was an ongoing FAP recipient from September 1, 2014, through March 31, 2015. During this period, the Claimant was employed and received monthly earned income in the gross monthly amount of \$ [REDACTED]. During this same period, the Claimant received Retirement, Survivors, and Disability Insurance (RSDI) benefits in the gross monthly amount of \$ [REDACTED].

Due to Department error, the Claimant's earned income was not applied towards her eligibility for FAP benefits. From September 1, 2014, through March 31, 2015, the Claimant received FAP benefits totaling \$ [REDACTED] but would have only been eligible for \$ [REDACTED] if all of her income had been properly processed by the Department. Therefore, the Claimant has received a \$ [REDACTED] overissuance of FAP benefits.

The Department has not alleged that the Claimant has committed any fraud to obtain benefits that he was not eligible for. Despite the absence of fraud, the Department is required to recoup benefits that were issued in error.

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 Claimant received a \$ [REDACTED] overissuance of Food Assistance Program (FAP) benefits that it is required to recoup.

DECISION AND ORDER

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



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

Date Mailed: **1/8/2016**

KS/nr

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:

