

**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.: 15-021782
Issue No.: 3007
Agency Case No.: [REDACTED]
Hearing Date: January 07, 2016
County: OTSEGO

ADMINISTRATIVE LAW JUDGE: Gary Heisler

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 7, 2016, from Lansing, Michigan. The Petitioner was represented by himself. The Department of Health and Human Services (Department) was represented by Recoupment Specialist [REDACTED]

ISSUE

Did Claimant receive a \$ [REDACTED] Agency Error over-issuance of Food Assistance Program benefits between January 1, 2012 and October 31, 2012?

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 a recipient of Food Assistance Program benefits during the time period at issue.
2. On October 16, 2015, Claimant was sent a Notice of Over-Issuance (DHS-4358).
3. On November 17, 2015, Claimant submitted a hearing request.

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) 700 Benefit Over-Issuances states that when a client group receives more benefits than it is entitled to receive, MDHHS must attempt to recoup the over-issuance. Bridges Administration Manual (BAM) 705 Agency Error Over-Issuances is the source of authority for this Departmental action. 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.

Over-issuance Period

Agency Error

BAM 705 Agency 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 12 months before the date the over-issuance was referred to the RS, whichever 12 month period is later.

To determine the first month of the over-issuance period for changes reported timely and not acted on, Bridges allows time for:

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

The full negative action suspense period.

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

Over-issuance Amount

BAM 705 Agency 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. Under Determining Budgetable Income, at page 8, the policy states:

If improper budgeting of income caused the over-issuance, use actual income for the past over-issuance month for that income source.

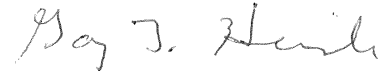
The over-issuance budgets submitted by the Department were checked for accuracy and found to be incorrect. The budgets do not all use the actual income for the month in calculating an over-issuance.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department has failed to

satisfy its burden of showing that it acted in accordance with Department policy in determining the alleged over-issuance.

Accordingly, the Department is **NOT UPHELD**.



Gary Heisler
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Mailed: **1/14/2016**

GH/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:

