

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

**IN THE MATTER OF:**



MAHS Reg. No.: 15-020027  
Issue No.: 3008  
Agency Case No.: [REDACTED]  
Hearing Date: January 26, 2016  
County: KALAMAZOO

**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 26, 2016, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED], [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 due to Department error?

**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 since October 8, 2014.
2. The Claimant was considered a change reporter until November 1, 2014, when she was switched to a simplified reporter.
3. The Claimant was employed by [REDACTED] [REDACTED] from May 20, 2014, through November 28, 2014.
4. The Claimant was employed by [REDACTED] [REDACTED] [REDACTED] from April 9, 2013, through January 30, 2015.
5. The Claimant was employed by [REDACTED] Health Alliance, Inc. from November 24, 2014, through June 20, 2015.

6. The Claimant was an ongoing Food Assistance Program (FAP) recipient from March 1, 2015, through June 30, 2015, and received \$ [REDACTED] of FAP benefits.
7. On September 23, 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 the Department's error.
8. On October 19, 2015, the Department received the Claimant's request for a hearing protesting the recoupment of 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.

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.

The Claimant has been an ongoing FAP recipient since the Department received her application on October 8, 2014. The Claimant was considered a change reporter until November 1, 2014, when she was switched to a simplified reporter.

However, the Department failed to request or process adequate verification of her continuing employment after being changed to a simplified reporter.

The Claimant was employed by [REDACTED] from May 20, 2014, through November 28, 2014, and by [REDACTED] from April 9, 2013, through January 30, 2015. The Claimant started new employment at [REDACTED] Inc. on November 24, 2014, which continued through June 20, 2015. Because the Department failed to seek adequate verification of her employment, the Department continued to use her prospected earnings from [REDACTED] and [REDACTED] wages to determine her eligibility from March 1, 2015, through [REDACTED] 30, 2015.

From March 1, 2015, through June 30, 2015, the Claimant received FAP benefits totaling \$ [REDACTED] but would have been eligible for only \$ [REDACTED] if her income had been

properly accounted for by the Department. Therefore, the Claimant received a \$ [REDACTED] overissuance of FAP benefits.

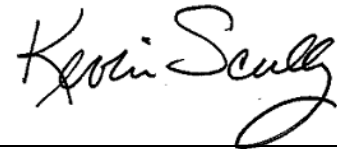
The Claimant testified that she always reported changes to her circumstances that affected her eligibility to receive benefits and that she should not be responsible for the Department's error when she had not reason to know that she had received an overissuance of benefits.

However, the Claimant had no right to receive FAP benefits that she was not eligible for and the Department's policies require it to recoup any overissuance of FAP benefits that it discovers.

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] of Food Assistance Program (FAP) benefits that the Department must recoup.

### **DECISION AND ORDER**

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



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

Date Mailed: **2/2/2016**

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:

