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

IN THE MATTER OF:

███████████

████████████

Kalamazoo County DHS

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to 7 CFR 273.18; 45 CFR 233.20(a)(13); MCL 400.9; MCL 400.37; MCL 400.43(a); MAC R 400.941 and MCL 24.201, *et seq*., upon a hearing request by the Department of Human Services (department) to establish an overissuance of benefits to Respondent. After due notice was mailed to Respondent, a hearing was held on September 8, 2011. Respondent personally appeared and provided testimony.

ISSUE

Whether Respondent received an overissuance of Family Independence Program (FIP) benefits that the Department is entitled to recoup?

FINDINGS OF FACT

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

1. Respondent signed Assistance Application (DHS-1171) on December 19, 2005, acknowledging that she understood her failure to give timely, truthful, complete and accurate information about her circumstances could result in a civil or criminal action or an administrative claim against her. (Department Exhibits 44-51). In this application, Respondent sought FIP benefits as an eligible grantee for her granddaughter (████) and reported that she had $0 income. (Department Exhibits 44-51).

2. On December 29, 2005, Respondent requested that her grandson (████) be added to the pending FIP case. (Department Exhibits 44-51).

3. On January 20, 2006, Respondent requested that her grandson ("C.B.") be added to her pending FIP case. (Hearing Summary).

4. Respondent did not report any earned or unearned income at the time.

5. On December 13, 2006, Respondent submitted another Assistance Application (DHS-1171). (Department Exhibits 53-59).

6. In the months of February, March and April of 2006, child support payments had been sent on behalf of ████ (Department Exhibits 39 &40).

7. On March 23, 2006, Respondent received a lump sum check in the amount of ███████ on behalf of ████████████ for Retirement, Survivors, Disability, Insurance (RSDI). (Department Exhibits 36, 53-59). Respondent began to receive regular monthly RSDI checks in April, 2006. (Department Exhibits 36 & 37).

8. Respondent's grandchildren were not eligible for FIP from May, 2006 through January, 2007 due to the RSDI and child support. (Department Exhibits 6-35).

9. On February 24, 2010, the Department mailed Respondent a Notice of Overissuance (DHS-4358-A). (Department Exhibit 7). According to the Department, Respondent received a total overissuance of FIP benefits in the amount of ███████ due to failure to report ██████████ RSDI income and failure to return ███████ child support payments to the State of Michigan. (Department Exhibit 1).

10. Respondent submitted a hearing request on April 12, 2010. (Request for a Hearing).

CONCLUSIONS OF LAW

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 8 USC 601, *et seq.* The Department of Human Services (DHS or department) administers the FIP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3101-3131. The FIP program replaced the Aid to Dependent Children (ADC) program effective October 1, 1996. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

Department policy states that when a client group receives more benefits than they are entitled to receive, DHS must attempt to recoup the overissuance (OI). BAM, Item 700, p. 1. OIs are caused by either department error or by client error. For all programs, a department error OI is caused by incorrect action (including delayed or no action) by DHS staff or department processes. BAM 700. Some examples of OIs that occur due to department error are: (1) the department failed to use or incorrectly used available information; (2) the department misapplied policy; (3) the department, through its local office or staff member, delayed taking some action; (4) there was a computer or machine error; (5) information was not shared between department divisions (services

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staff, Work First agencies, etc.,) and (6) data exchange reports were not acted upon timely (Wage Match, New Hires, BENDEX, etc.). BAM 700.

When the type of OI is unable to be identified, it shall be recorded as a department error. BAM 700. For FIP, SDA, CDC and FAP, department error OIs are not pursued if the estimated OI amount is less than $125 per program. BAM 700. However, there is no threshold limit on CDC system errors. BAM 700. For FIP, SDA and FAP, the department error threshold was lowered to $125 retroactive back to August 1, 2008. BAM 700. For the FIP and SDA programs only, the department will consider an OI due to excess assets as a department error unless it was the result of an intentional program violation. BAM 700.

With regard to the CDC program, CDC department errors and CDC provider department errors must be pursued beginning October 1, 2006. BAM 700. If the CDC department error OI period included the month of October 2006, include the months previous to October 2006 when determining the OI amount. BAM 700. Department errors will be assigned to the provider or the client depending on the type of department error that occurred.

For MA, SER and ESS only, recoupment of department error OIs are not pursued. BAM 700, pp. 3-4.

For all programs, a client error OI occurs when the client received more benefits than they were entitled to because the client gave incorrect or incomplete information to the department. BAM 700. A client error also exists when the client's timely request for a hearing results in deletion of a DHS action, and (1) the hearing request is later withdrawn, or (2) administrative hearings denies the hearing request, or (3) the client or administrative hearing representative fails to appear for the hearing and administrative hearings gives DHS written instructions to proceed, or (4) the hearing decision upholds the department's actions. See BAM 600. BAM Item 700, p. 5.

For the SDA program, a client error exists when the client fails to honor an SDA repay agreement after receiving a potential resource. Do not pursue IPV. See BEM 272. BAM 700, p. 5.

The following concerns the OI threshold for FIP, SDA, CDC and FAP. Department error OIs are not pursued if the estimated OI amount is less than $125 per program. BAM 700. Client error OIs are not established if the OI amount is less than $125, unless (1) the client or provider is active for the OI program or (2) the OI is a result of a Quality Control (QC) audit finding. BAM 700, p. 7.

For FIP, SDA, CDC and FAP, department error OIs are not pursued if the estimated OI amount is less than $125 per program. BAM 700. However, there is no threshold limit on CDC system errors. BAM 700. The Reconciliation and Recoupment Section (RRS) in central office will recoup these types of overissuances. BAM 700. The department error threshold was lowered to $125 retroactive back to August 1, 2008. BAM 700.
For FIP and SDA programs, the department will treat an OI due to excess assets as a department error unless IPV caused it. BAM 700. For FAP only, the department will not recoup OIs caused by the following department errors: (1) the group was certified in the

wrong county or (2) the local office failed to have the FAP group sign the application form. BAM 705, pp. 1-2.

The following covers the OI period for FIP, SDA, CDC and FAP programs. The OI period begins with the first month (or first period for CDC) when benefit issuance exceeds the amount allowed by policy, or 12 (twelve) months before the discovery date, whichever is later. BAM 700.

To determine the first month of the OI period for changes reported timely and not acted on, the department will allow time for the full Standard of Promptness (SOP) for change processing, per BAM 220, and the full negative action suspense period. BAM 700. See also BAM 220. The OI period ends the month (or payment period for CDC) before the month when the benefit is corrected. BAM 700. For FIP, SDA, CDC and FAP, the OI discovery date for a department error is the date the RS can determine there is a department error. BAM, Item 705, pp. 4-5.

For FIP, SDA, CDC and FAP, the amount of benefits received in an OI calculation includes:

- regular warrants
- supplemental warrants
- duplicate warrants
- vendor payments
- administrative recoupment deductions
- EBT cash issuances
- EFT payments
- replacement warrants (use for the month of the original warrant) BAM 700.

But does not include:

- warrants that have not been cashed
- escheated EBT cash benefits (SDA only)

BAM, Item 705, p. 5.

For FAP only, the amount of EBT benefits received in the OI calculation is the gross (before Automated Recoupment (AR) deductions) amount issued for the benefit month. BAM 700. If the FAP budgetable income included FIP/SDA benefits, the department will use the grant amount actually received in the OI month. BAM 700. The department will use the FIP benefit amount when FIP closed due to a penalty for non-cooperation with employment-related activity or child support. BAM 705, p. 6.

When determining budgetable income for FIP, SDA, CDC and FAP, the following policies apply. If improper budgeting of income caused the OI, the department will use actual income for the past OI month for that income source. BAM 700. Income received weekly or every other week will be converted to a monthly amount. BAM 700. Except for FAP only, income is not converted from a wage match for any type of OI. BAM 700.

Any income properly budgeted in the issuance budget remains the same in that month's corrected budget. BAM 700.

For FAP only, if the FAP budgetable income included FIP/SDA benefits, the department will use the grant amount actually received in the OI month. BAM 705. The department will use the FIP benefit amount when FIP closed due to a penalty for non-cooperation in an employment-related activity. BAM, Item 705, p. 6.

During the hearing, Respondent, through her representative, agreed that she failed to timely and properly report the RSDI income which resulted in an overissuance of FIP benefits in the amount of ████████[1] But Respondent challenged the Department's findings that Respondent was responsible to repay any OI relating to the ████████ in child support income because Respondent did not actually receive the payments.

In this case, the Department is requesting recoupment for an alleged FIP overissuance for the period of February, 2006 through January, 2007. Because Respondent conceded the FIP overissuance for failure to disclose RSDI income, the disputed FIP overissuance amount is ██████ based on the child support. Broken down, these payments are as follows: ██████ on February 28, 2006, ██████ on March 15, 2006 and ██████ on April 20, 2006. During this time period, Respondent had received FIP payments and Respondent's FIP recipient/group member, ████., received child support payments.

Department policy indicates that when a client group receives more benefits than they are entitled to receive, DHS must attempt to recoup the overissuance. BAM 700. In this case, the error was a department error, as the appropriate action was not taken timely by the department staff. Department error overissuances are recouped if the amount is more than $125. BAM 700. Here, the remaining disputed FIP overissuance amount is ██████, which purportedly was due to unreported child support income. Department contends that the child support income should have been sent to the State of Michigan. However, Respondent did receive FIP benefits during the time period in question and there was no evidence that her grandchildren were not in her custody at the time.

This Administrative Law Judge finds that the evidence presented by the department shows that Respondent is responsible for repayment of the overissuance from February 1, 2006 through January 31, 2007.
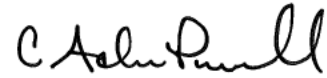
DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that Respondent received an overissuance of FIP benefits for the time period of February, 2006 through January, 2007, that the department is entitled to recoup.

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[1] The Department contends that the total overissuance of FIP benefits from February, 2006 through January, 2007 was ██████. This amount, according to the Department, was due to failure to report unearned income from RSDI and child support.

The department is entitled to recoup the total FIP overissuance in the amount of ███████ from Respondent.

It is SO ORDERED.

C Adam Purnell (signature)

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C. Adam Purnell
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed:___9/28/11

Date Mailed: ___9/28/11

NOTICE: Administrative Hearings may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. Administrative Hearings will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 60 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

CAP/ds