

STATE OF MICHIGAN  
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES  
ADMINISTRATIVE HEARINGS FOR THE  
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg. No: 2007-16843  
Issue No: 3020  
Case No: [REDACTED]  
Load No: [REDACTED]  
Hearing Date:  
October 20, 2010  
Kent County DHS

**ADMINISTRATIVE LAW JUDGE:** Kevin Scully

**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 Respondent to dispute a proposed Food Assistance Program (FAP), Family Independence Program (FIP), and Child Development and Care (CDC) debt establishment caused by departmental error. After due notice was mailed to respondent, a telephone hearing was held on Wednesday, October 20, 2010, and the Respondent did not appear.

**ISSUE**

Whether the Department of Human Services (Department) properly determined that the Respondent received an overissuance of Food Assistance Program (FAP), Family Independence Program (FIP), and Child Development and Care (CDC) benefits?

**FINDINGS OF FACT**

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

1. On May 18, 2006, the Department sent the Respondent notice that it would terminate her FAP, FIP, and CDC benefits effective May 31, 2006.
2. The Department received the Respondent's request for a hearing on May 23, 2006, protesting the termination of her FAP, FIP, and CDC benefits.
3. The closure of the Respondent's FAP, FIP, and CDC benefits was delayed pending an administrative hearing at the Respondent's request.

4. On August 25, 2006, the State Office of Administrative Hearings and Rules scheduled a hearing. The Respondent failed to appear at this hearing and the Department terminated the Respondent's FAP, FIP, and CDC benefits.
5. On January 29, 2007, the Department sent the Respondent notice that she had received a \$ [REDACTED] FAP overissuance, a \$ [REDACTED] FIP overissuance, and a \$ [REDACTED] CDC overissuance from June 1, 2006, through October 31, 2006.
6. The Department received the Respondent's request for a hearing on February 8, 2007, protesting the recoupment of overissued benefits.
7. On July 7, 2009, the Respondent was sent notice that a hearing was scheduled for August 5, 2009, but this hearing was adjourned when notice of the hearing was returned by the U.S. Postal Service as undeliverable.
8. On March 29, 2010, the Respondent was sent notice that a hearing was scheduled for April 28, 2010, but this hearing was adjourned as the Respondent's request because she needed an interpreter to participate in the hearing.
9. On September 28, 2010, the Respondent was sent notice that a hearing was scheduled for October 20, 2010. Notice of this hearing was not returned by the U.S. Postal Service as undeliverable, but the Respondent did not appear at this hearing.

### **CONCLUSIONS OF LAW**

The Food Assistance Program (FAP) (formerly known as the Food Stamp program, is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). The Department of Human Services (DHS or Department), administers the FAP program pursuant to MCL 400.10, et seq., and MAC R 400.3001-3015. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), Reference Table Manual (RFT), and the Bridges Reference Manual (BRM).

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), Reference Table Manual (RFT), and the Bridges Reference Manual (BRM).

The Child Development and Care program is established by Titles IVA, IVE, and XX of the Social Security Act, the Child Care and Development Block Grant of 1990, and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The program is implemented by Title 45 of the Code of Federal Regulations, Parts 98 and 99. The Department of Human Services (DHS or Department) provides services to adults and children pursuant to MCL 400.14(1) and M.A.C.R. 400.5001-5015. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), Reference Table Manual (RFT), and the Bridges Reference Manual (BRM).

A timely hearing request is a request received anywhere in the department:

- Within the pending negative action period; or
- Within eleven days of the effective date of an immediate negative action (i.e., with adequate notice). When the 11th calendar day is a Saturday, Sunday, holiday, or other non-workday, the request is timely if received by the following workday; or
- Prior to the effective date of an automatic MA or AMP termination. The effective date on the DHS-1605 is the MA end date on CIMS (negative action code 095).

While waiting for the hearing decision, recipients must continue to receive the assistance authorized prior to the notice of negative action when the request was filed timely. Upon receipt of a timely hearing request, do one of the following that applies to the case.

- Delete the pending negative action.
- Reinstate program benefits to the former level for a hearing request filed because of an immediate negative action. BAM 600.

An overissuance is the amount of benefits issued to the client group in excess of what they were eligible to receive. BAM 705. The amount of the overissuance is the amount of benefits the group actually received minus the amount the group was eligible to receive. BAM 720. When a client group receives more benefits than they are entitled to receive, the Department must attempt to recoup the overissuance. BAM 700.

Department errors are caused by incorrect actions by the Department. BAM 705. Department error overissuances are not pursued if the estimated overissuance is less than \$ [REDACTED] per program. BAM 700. Client errors occur when the customer gave incorrect or incomplete information to the Department. Client errors are not established if the overissuance is less than \$ [REDACTED] unless the client group is active for the overissuance program, or the overissuance is a result of a quality control audit finding. BAM 700.

A client error also exists when the client's timely request for a hearing results in deletion of a DHS action, and any of:

- The hearing request is later withdrawn.
- SOAHR denies the hearing request.
- The client or administrative hearing representative fails to appear for the hearing and SOAHR gives DHS written instructions to proceed.
- The hearing decision upholds the department's actions. BAM 700.

In this case, the Department sent the Respondent notice that it would terminate her FAP, FIP, and CDC benefits effective May 31, 2006. The Respondent submitted a timely hearing request protesting the termination of her benefits and the Department continued to issue benefits pending the hearing as directed by Bridges Administrative Manual Item 600. The State Office of Administrative Hearings and Rules scheduled a hearing for August 25, 2006, and the Respondent failed to appear at this hearing. The Department then proceeded with the closure of the Respondent's FAP, FIP, and CDC benefits.

The Respondent received FAP, FIP, and CDC benefits from June 1, 2006, through October 31, 2006. These benefits were received as a result of client error because they were received solely due to the deletion of a Department action pending an administrative hearing and the client failed to appear for the hearing.

On January 29, 2007, the Department sent the Respondent notice that she had received a \$ [REDACTED] FAP overissuance, a \$ [REDACTED] FIP overissuance, and a \$ [REDACTED] CDC overissuance from June 1, 2006, through October 31, 2006. The Department received the Respondent's request for a hearing on February 8, 2007, protesting the recoupment of overissued benefits. On July 7, 2009, the Respondent was sent notice that a hearing was scheduled for August 5, 2009, but this hearing was adjourned when notice of the hearing was returned by the U.S. Postal Service as undeliverable. On March 29, 2010, the Respondent was sent notice that a hearing was scheduled for April 28, 2010, but this hearing was adjourned as the Respondent's request because she needed an interpreter to participate in the hearing. On September 28, 2010, the Respondent was sent notice that a hearing was scheduled for October 20, 2010. Notice of this hearing was not returned by the U.S. Postal Service as undeliverable, the Respondent did not appear at this hearing, and the hearing was conducted in her absence.

The Department has established that the Respondent received a \$ [REDACTED] FAP overissuance, a \$ [REDACTED] FIP overissuance, and a \$ [REDACTED] CDC overissuance from June 1, 2006, through October 31, 2006, due to client error as defined by Bridges Administrative Manual Item 700.

**DECISION AND ORDER**

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department has established that the Respondent received a \$ [REDACTED] FAP overissuance, a \$ [REDACTED] FIP overissuance, and a \$ [REDACTED] CDC overissuance due to client error.

The Department's recoupment of overissued FAP, FIP, and CDC benefits is AFFIRMED. The Respondent is ORDERED to reimburse the Department for the overissuance,

\_\_\_\_\_/s/

Kevin

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Scully  
Administrative Law Judge  
for Duane Berger, Director  
Department of Human Services

Date Signed: January 6, 2011

Date Mailed: January 6, 2011

**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.

KS/alc

cc:

[REDACTED]