

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

IN THE MATTER OF:



Reg. No.: 2011-41640
Issue No.: 4060
Case No.:
Hearing Date: November 2, 2011
County: Wayne County DHS (31)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37; MCL 400.43 (a); Mich Admin Code, R 400.941 and MCL 24.201, et seq., upon a hearing request by the Department of Human Services (Department) to establish an over issuance (OI) of benefits to Respondent. After due notice, a hearing was held on November 2, 2011.

Respondent did not appear. This matter having been initiated by the Department and due notice having been provided to Respondent, the hearing was held in Respondent's absence in accordance with Bridges Administrative Manual (BAM), Item 725. Other participants included Agent, Office of Inspector General.

Respondent appeared and testified.

ISSUE

Did Respondent receive an OI of FIP FAP SDA CDC benefits?

FINDINGS OF FACT

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

1. Respondent was a recipient of FIP FAP SDA CDC during the period 8/21/05 through 6/10/06.
2. Respondent received a FIP FAP SDA CDC OI during the period 9/30/05, through 6/10/06, due to Department's Respondent's error.

3. \$7021.35 overissuance amount as calculated by the Department is not correct as it begins at the wrong date, but an overissuance is still due and owing to the Department.

CONCLUSIONS OF LAW

Department policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT).

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 42 USC 601, *et seq.* The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10, *et seq.*, and 1999 AC, Rule 400.3101 through Rule 400.3131. FIP replaced the Aid to Dependent Children (ADC) program effective October 1, 1996.

The Food Assistance Program (FAP) [formerly known as the Food Stamp (FS) 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 (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, *et seq.*, and 1999 AC, Rule 400.3001 through Rule 400.3015.

The State Disability Assistance (SDA) program, which provides financial assistance for disabled persons, is established by 2004 PA 344. The Department of Human Services (formerly known as the Family Independence Agency) administers the SDA program pursuant to MCL 400.10, *et seq.*, and 2000 AACS, Rule 400.3151 through Rule 400.3180.

The Child Development and Care (CDC) 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 provides services to adults and children pursuant to MCL 400.14(1) and 1999 AC, Rule 400.5001 through Rule 400.5015.

Additionally, The Department demonstrated that Claimant was receiving CDC benefits during the period she was assigned to attend Work First, but that during the period of overissuance the Claimant was not attending the Work First program. Claimant attended Work First orientation, but shortly thereafter was in noncompliance and thus not eligible for CDC. The Claimant was found in non compliance as of 9/30/05 and was no longer entitled to receive CDC.

The Claimant was not entitled to CDC after the non compliance date of 9/30/11. The Department however began the OI period 8/21/05 a date that was not supported by the

evidence as presented. Thereafter the Department demonstrated that the Claimant continued to receive CDC benefits until June 10, 2006 when she attended orientation again.

The Department has established its right to collect a debt and has established an OI. However, the Department must recalculate the OI amount to begin from 9/30/05 rather than 8/21/05. The evidence presented did not support the OI beginning 8/21/05 but did establish the date the Claimant was no longer eligible to receive CDC as the non compliance date of 9/30/05.

Based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, the Administrative Law Judge concludes that the Department properly improperly determined that Respond received an Overissuance of FIP FAP SDA CDC benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that the Department did did not make the correct determination to establish a debt, however the amount of the Overissuance must be recalculated.

Accordingly, the Department is AFFIRMED REVERSED AFFIRMED IN PART with respect to its right to collect a debt but did not establish the correct OI amount

The Department is ORDERED prior to initiating debt collection procedures, to recompute the amount of the OI to begin 9/30/05 rather than 8/21/05.

The Department is ORDERED to initiate collection procedures in accordance with Department policy.


Lynn M. Ferris
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 11/10/11

Date Mailed: 11/10/11

NOTICE: The law provides that within 60 days from the mailing date of the above hearing Decision the Respondent may appeal it to the circuit court for the county in which he/she resides or has his or her principal place of business in this state, or in the circuit court for Ingham County. Administrative Hearings, on its own motion, or on request of a party within 60 days of the mailing date of this Hearing Decision, may order a rehearing.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
 - misapplication of manual policy or law in the hearing decision,
 - typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
 - the failure of the ALJ to address other relevant issues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail at
Michigan Administrative Hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

LMF/hw

cc:

