

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

IN THE MATTER OF:



Reg. No.: 2011-51250
Issue No.: 4060
Case No.: [REDACTED]
Hearing Date: November 9, 2011
County: Wayne (35)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Claimant's request for a hearing. After due notice, a telephone hearing was held on November 9, 2011, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of Department of Human Services (Department) included [REDACTED], JET case manager.

ISSUE

Did Claimant receive an overissuance of program benefits that the Department is entitled to recoup?

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 an ongoing recipient of benefits for:

- | | |
|--|---|
| <input checked="" type="checkbox"/> Family Independence Program (FIP). | <input type="checkbox"/> State Disability Assistance (SDA). |
| <input type="checkbox"/> Food Assistance Program (FAP). | <input type="checkbox"/> Child Development and Care (CDC). |
| <input type="checkbox"/> Medical Assistance (MA). | |

2. The Department determined that Claimant received a
 FIP FAP MA SDA CDC overissuance during the period of April 1, 2011 through July 31, 2011.

3. The overissuance was due to Department error. client error.

4. On June 30, 2011, the Department sent notice of the overissuance and a repayment agreement to Claimant.
5. On August 17, 2011, Claimant filed a hearing request, protesting the Department's recoupment action.

CONCLUSIONS OF LAW

Department policies are found 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, R 400.3001 through Rule 400.3015.

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105.

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 ACS, R 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, R 400.5001 through Rule 400.5015.

Additionally, when a client group receives more benefits than they are entitled to receive, the Department must attempt to recoup the overissuance (OI). BAM 700.

In this case, the Department claimed an overissuance of FIP benefits paid to Claimant from April 1, 2011, to July 31, 2011, based on Claimant's failure to timely report her group's income. At the hearing, however, the Department failed to present any evidence showing how it had calculated its overissuance to Claimant or even what the amount of the overissuance was. The Department produced the June 30, 2011, Notice of Overissuance sent to Claimant informing her of the overissuance. While the first page of the notice (DHS 4958A) indicated that the overissuance balance was \$1928, the overissuance summary (DHS 4358C), the third page of the notice, indicated that Claimant owed \$1508. While it appeared that the Department was crediting Claimant for underpayments made in December 2010, January 2011, February 2011, and March 2011, the Department testified that it was not certain how the recoupment amount was calculated and could not explain the discrepancy in the two amounts listed on the Notice forms.

Furthermore, the Department could not explain how Claimant's husband's income had been calculated in determining the recoupment amount. If improper reporting or budgeting of income caused the overissuance, the Department must use actual income for the overissuance month for that income source. BAM 715. In this case, the evidence showed that Claimant's husband's actual weekly income for the period at issue varied from week to week. The Department did not use actual income in calculating the overissuance amounts. Rather, the Department calculated a single gross monthly income amount, the basis of which the Department could not explain, and used this same figure for each of the months at issue. Finally, the Department failed to produce overissuance budgets for each of the months at issue to show how the overissuance was calculated. In light of the foregoing, the Department failed to satisfy its burden of establishing the overissuance. Further, the Department seems to have begun recouping \$8 per month from Claimant's existing FIP benefits beginning August 1, 2011, to offset this improperly assessed overissuance.

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 Claimant

- did receive an overissuance for FIP FAP MA SDA CDC benefits in the amount of \$ _____ that the Department is entitled to recoup.
- did not receive the overissuance for which the Department presently seeks recoupment.

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

- did act properly. did not act properly.

Accordingly, the Department's decision is AFFIRMED REVERSED for the reasons stated above and on the record.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Remove the recoupment action for FIP benefits from Claimant's case for the period from April 1, 2011, to July 31, 2011; and
2. Issue supplements to Claimant for any FIP benefits the Department improperly recouped from August 1, 2011, ongoing, if any.



Alice C. Elkin
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: December 13, 2011

Date Mailed: December 13, 2011

NOTICE: Michigan Administrative Hearing System (MAHS) 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. MAHS will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request. (60 days for FAP cases)

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.

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

ACE/ctl

2011-51250

cc:

[REDACTED]

Wayne County DHS (35)/1843

[REDACTED]

A.
File

Elkin