

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

IN THE MATTER OF:



Reg. No.: 2012-17187
Issue No.: 1030
Case No.: [REDACTED]
Hearing Date: April 16, 2012
County: Wayne (82-31)

ADMINISTRATIVE LAW JUDGE: Jan Leventer

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 April 16, 2012, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and her mother, [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED].

ISSUE

Did Claimant receive an overissuance of Family Independence Program (FIP) 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. During the period of August 25, 2009, through the present, Claimant received 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 in the amount of \$1,993 during the period of January 1, 2010, through June 30, 2010.

3. The overissuance was due to Department error. client error.
4. On October 26, 2011, the Department sent notice of the overissuance and a repayment agreement to Claimant.
5. On November 1, 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 AACS, 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, in this case, the Department appeared at the hearing without the documents to substantiate its claim of overissuance and without a witness who was familiar with the file and capable of discussing the Department's allegations. Claimant was not sent a copy of the Department's documentation and was, therefore, not in a position to understand the Department's allegations.

The Department's documentation, a copy of which was received by the Administrative Law Judge, consists of sixty-three pages. The documents were admitted in evidence over the objection of Claimant, as her relevance objection went to the weight and not the admissibility of the documents.

The documents reflect first that there was no overissuance in June 2010, and the Department's allegation of a June 2010 overissuance is in error. Next, as the Department witness could not competently discuss the overissuance calculations, as she had no familiarity with them and did not bring them to the hearing, the undersigned is dubious that the numbers are reliable.

The concern as to the reliability of the Department's calculations is also based on the fact that the alleged overissuance was admittedly caused by Department error in the first instance. Also, in this case, on July 1, 2010, the Department erroneously terminated Claimant's FIP benefits based on its miscalculation of income. This action was later found to be erroneous and was overturned.

Because the Department alleged overissuance for six months when it was only five, because the Department did not present a witness who had the appropriate documentation, because the Department did not present a witness prepared to testify about the file, because the Department failed to provide Claimant with a copy of its documentation in advance of the hearing, because the Department erred in failing to include Claimant's income in its original FIP budget calculations in 2010, and because the Department erred in terminating Claimant's benefits based on its own miscalculations, it is found and determined that the Department has failed to sustain its burden of proof in this case.

The Department's burden of proof is to establish by a preponderance of the evidence that the alleged overissuance occurred. Given the number of miscalculations that have occurred in this case, the undersigned cannot accept the Department's documentation by itself, without credible supporting testimony, as sufficient to meet the Department's burden. The Department's recoupment action is therefore REVERSED.

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 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. Initiate procedures to dismiss all recoupment allegations and procedures in effect against Claimant;
2. Initiate procedures to provide supplemental retroactive reimbursement to Claimant of any portion of FIP benefits taken out of her allotment from June 2010 to the present;
3. Initiate procedures to restore Claimant to the FIP benefit level to which she is entitled from June 2010 to the present.
4. All steps shall be taken in accordance with Department policy and procedure.



Jan Leventer
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: April 19, 2012

Date Mailed: April 19, 2012

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

JL/pf

cc:

