

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

IN THE MATTER OF

[REDACTED]

Reg No.: 2012-52494
2012-52497
Issue No.: 1052, 3052
Case No.: [REDACTED]
Hearing Date: July 2, 2012
Macomb County DHS (12)

ADMINISTRATIVE LAW JUDGE: Colleen M. Mamelka

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37, 7 CFR 273.16, Mich Admin Code, Rules ("MAC R") 400.3130 and 400.3178 upon the Department of Human Services' request for an administrative recoupment. After due notice, a telephone hearing was conducted from Detroit, Michigan on Monday, July 2, 2012. The Respondent appeared and testified. [REDACTED] Recoupment Specialist, appeared on behalf of the Department of Human Services ("Department").

ISSUE

Whether the Department established an over-issuance of Food Assistance Program ("FAP") benefits for the period from November 2009 through June 2010?

Whether the Department established an over-issuance of cash assistance ("FIP") benefits for the period from November 2009 through August 2010?

FINDINGS OF FACT

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

1. The Respondent was a FAP recipient for the period from November 2009 through June 2010.
2. The Respondent was a FIP recipient for the period from November 2009 through August 2010.

3. As a result of Retirement, Survivor , Disability Insurance (“RSDI”) income not considered in determining the Respondent’s FAP benefits for the period of November 2009 through June 2010, the Respondent received a FAP over-issuance of \$2,152.00. (Exhibit 1, pp. 61 – 80)
4. As a result of the RSDI income not considered in determining the Respondent’s FIP eligibility for the period from November 2009 through August 2010, the Respondent received a FIP over-issuance of \$4,030.00. (Exhibit 1, pp. 32 – 52)
5. On February 24, 2012, the Department sent Notices of Overissuance to the Respondent for both the FAP and FIP programs. (Exhibit 1, pp. 53 – 56; 81 – 84)
6. On April 9, 2012, the Department received a written hearing request from the Respondent.
7. The Respondent does not dispute the FAP and FIP over-issuance and has made payment arrangements.

CONCLUSIONS OF LAW

The Food Assistance Program, 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, formerly known as the Family Independence Agency, administers the FAP program pursuant to MCL 400.10, *et seq.* and MAC R 400.3001-3015. Departmental policies are found in the Bridges Administrative Manual (“BAM”), the Bridges Eligibility Manual (“BEM”), and the Bridges Reference Tables (“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 Mich Admin Code, Rules 400.3101 through R 400.3131. FIP replaced the Aid to Dependent Children (“ADC”) program effective October 1, 1996. Department policies are found in the BAM, BEM, and RFT.

In this case, the Department seeks administrative recoupment for an over-issuance of FAP and FIP benefits. An over-issuance (“OI”) occurs when a client group receives more benefits than they are entitled to receive. BAM 700. A claim is the resulting debt

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created by the over-issuance of benefits. BAM 700. Recoupment is an action to identify and recover a benefit OI. BAM 700.

The law provides that disposition may be made of a contested case by stipulation or agreed settlement. MCL 24. 278(2)

In the record presented, the Department established that the Respondent received a \$2,152.00 FAP over-issuance for the period from November 2009 through June 2010. Additionally, the Department established that the Respondent received a \$4,030.00 FIP over-issuance for the period from November 2009 through August 2010. The Respondent does not dispute the FAP and FIP over-issuances. The Department has reduced the Respondent's FAP benefits accordingly. Further, the Respondent has made arrangements with the Department of Treasury for the FIP over-issuance. In light of the accord, there is no further issue that needs to be adjudicated.

DECISION AND ORDER

The Department established through clear and convincing evidence the Respondent received a \$2,152.00 FAP and a \$4,040.00 FAP over-issuance for the period from November 2009 through June 2010 and November 2009 through August 2010, respectively, from which the Department is entitled to recoupment.

Accordingly, it is ORDERED:

The Department's administrative recoupment for is AFFIRMED.



Colleen M. Mamelka
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: July 9, 2012

Date Mailed: July 9, 2012

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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 Respondent 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.

Respondent 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

CMM/cl

cc:



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