

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2012 11676
Issue No.: 3014, 3052
Case No.: [REDACTED]
Hearing Date: December 7, 2011
County: Oakland County DHS (04)

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 following Claimant's request for a hearing. After due notice, a telephone hearing was held on December 7, 2011. from Detroit, Michigan. Participants on behalf of Claimant included the Claimant and his Authorized Hearing Representative, [REDACTED]. Participants on behalf of Department of Human Services (Department) included [REDACTED], Eligibility Specialist.

ISSUE

Due to a change in the eligibility requirements for students receiving FAP benefits did the Department properly deny the Claimant's application close Claimant's case reduce Claimant's benefits for:

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

Due to Agency Error did the Departments properly seek an overissuance of \$1400 in FAP benefits and recoupment of FAP benefits improperly received by the Claimant?

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 applied for benefits for: received benefits for:

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

2. On December 1, 2011, the Department denied Claimant's application
 closed Claimant's case reduced Claimant's benefits
Because the Claimant was attending school and was not working 20 hours per week.
3. On October 28, 2011 the Department sent the Claimant a Notice of Overissuance of FAP benefits in the amount of \$1400 due to Agency Error. The overissuance period covered the period May 1, 2011 through November 1, 2011.
4. The Claimant ended his employment on October 7, 2011.
5. In May 2011, the Claimant was attending school and was not working. The Claimant is still a student and is attending college as of the date of the hearing.
6. On October 27, 2011 , the Department sent
 Claimant Claimant's Authorized Representative (AR)
notice of the denial. closure. reduction.
7. On 11/1/11, Claimant or Claimant's AHR filed a hearing request, protesting the
 denial of the application. closure of the Claimant's FAP case and the challenging the overissuance and recoupment sought by the Department for FAP benefits.

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 Adult Medical Program (AMP) is established by 42 USC 1315, and is administered by the Department pursuant to MCL 400.10, *et seq.*

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 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 (formerly known as the Family Independence Agency) administers the SDA program pursuant to MCL 400.10, *et seq.*, and 2000 AACCS, 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.

Closure of FAP Case

Additionally, in March 2011 Department policy changed and redefined Student Status. In order to be eligible for FAP benefits, a student, as of April 1, 2011 is now required to be enrolled in school at least part time and working at least 20 hours a week and paid for their employment. BEM 245, page 3. The addition of the 20 hour work requirement was a change in previous policy that did not include the 20 hour work requirement. Based upon the evidence presented at the hearing it appears that the Claimant was not working during May and June and began working in July, 2011 and ceased working October 7, 2011. The Claimant has attended school continuously from May 1, 2011 through the present. Under these facts it is determined that the Department correctly closed the Claimant's FAP case as he did not meet the 20 hour work requirement of BEM 245.

Overissuance and Recoupment

The Claimant at all relevant times advised the Department of his student status, beginning with his 4/18/11 application for FAP benefits where he disclosed his college attendance. Additionally, his disclosure of income on the redetermination was submitted on 9/23/2011. Unfortunately the Department did not apply the new policy when it was required to do so, and due to Agency Error the Claimant received an overissuance of FAP benefits in the amount of \$1400. A review of employment data relied upon by the Department to close the Claimant's FAP case indicates the hours claimant worked monthly and established that the Department is entitled to a finding of overissuance for the months of May, June, August and September, October and

November 2011. However a review of the work hour information indicated that the Department is not entitled to a finding of overissuance for July 2011 because the Claimant worked 20 hours a week. During the other months the Claimant did not meet the 20 hour requirement. It is noted that the Claimant worked 19.6 hours per week on average in September 2011 and was just short of the 20 hour requirement and might have met the requirement had he been advised of the 20 hour a week requirement by the Department.

When a client group receives more benefits than they are entitled to receive, the Department must attempt to recoup the OI. BAM 700. A claim is the resulting debt created by the over issuance of benefits (OI). Id. Recoupment is an action to identify and recover a benefit. Id. The Department must take reasonable steps to promptly correct any overpayment of public assistance benefits, whether due to department or client error. BAMs 700, 705, 715, and 725. An agency error OI is caused by incorrect actions by DHS, DIT staff, or department processes. BAM 705, p. 1. In general, agency error OIs are not pursued if OI amount is under \$125.00 per program. BAM 705, pp. 1-3. In this case it is found that the Department established an overissuance of FAP benefits to the Claimant in the amount of \$1200, and was not entitled to an overissuance for July, 2011.

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, due to excess income, the Department properly improperly

- denied Claimant's application
- reduced Claimant's benefits
- closed Claimant's case

for: AMP FIP FAP MA SDA CDC.

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 did establish an overissuance of FAP benefits to the Claimant in the amount of \$1200.

DECISION AND ORDER

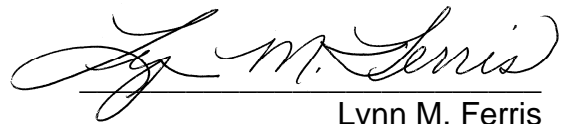
The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department did act properly did not act properly.

Accordingly, the Department's AMP FIP FAP MA SDA CDC decision is AFFIRMED REVERSED for the reasons stated on the record.

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, and in this decision finds that the Department has established an overissuance of FAP benefits in the amount of \$1200.

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

1. The Department shall remove the overissuance of FAP benefits in the amount of \$200 for the month of July 2011 from its recoupment efforts and the Claimant's overissuance amount, as the Department is not entitled to seek overissuance of that amount because the Claimant was in compliance with Department's 20 hour weekly work policy for students that month. The Department is entitled to seek an overissuance of FAP benefits in the amount of \$1200.



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

Date Signed: 12/13/11

Date Mailed: 12/13/11

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

LMF/hw

cc:

