

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

**IN THE MATTER OF:**



Reg. No.: 2012-17647  
Issue No.: 1031  
Case No.: [REDACTED]  
Hearing Date: April 23, 2012  
County: Wayne (82-15)

**ADMINISTRATIVE LAW JUDGE:** Robert J. Chavez

**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 23, 2012, from Detroit, Michigan. Participants on behalf of claimant included [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED].

**ISSUE**

Did claimant receive an overissuance (OI) 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. During the period of June 1, 2011, through June 30, 2011, 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 OI in the amount of \$393 during the period of June 1, 2011, through June 30, 2011.

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

4. On September 11, 2011, the Department sent notice of the OI and a repayment agreement to claimant.
5. On November 14, 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.

A client/CDC provider error OI occurs when the client received more benefits than they were entitled to because the client/CDC provider gave incorrect or incomplete

information to the Department. BAM 715. This includes failing to report a change. A Department error OI is caused by incorrect actions (including delayed or no action) by the Department or Department processes. BAM 705. When a client group receives more benefits than they are entitled to receive, the Department must attempt to recoup the overissuance. BAM 700.

Department error OIs are not pursued if the estimated OI amount is less than \$125 per program. BAM 700.

In the current case, the Department contends that claimant had not reported income as required by policy; this income was incorrectly budgeted by the Department, and claimant was issued more FIP benefits than she was legitimately entitled to and these benefits need to be recouped.

Claimant contends that she reported her income and did not receive the FIP benefits in question.

Unfortunately, even if claimant did report, and the Department made a mistake, this would not normally change the recoupment prospects. BAM 700 states that the Department must pursue any OI that was the result of Department error if the amount is above \$125. Claimant's OI is allegedly above that amount. Therefore, the OI must be recouped, regardless of whose fault the error was, if the Department can satisfactorily prove the recoupment amount to the Administrative Law Judge.

However, in the current case, the Department has not proven that amount.

During the hearing, the Administrative Law Judge asked the Department three separate times if the Department wished to submit additional evidence beyond a recoupment notice. Three times, the Department declined to submit additional evidence. When asked if they wished to rest their case, the Department answered in the affirmative. Prior to the start of testimony, the Department was warned that they would be required to submit evidence to prove each element of their case.

Budgets are critical pieces of evidence that could show how claimant's benefits were initially calculated. Corrected budgets could show how claimant's benefits should have been calculated and the correct amount of benefits claimant should have received. Regardless, these budgets are essential to proving that an OI occurred. The Administrative Law Judge cannot just take the testimony of the Department that there was an OI; evidence is required.

However, no such evidence was entered into the record. Thus, the undersigned must hold the Department has failed to prove the foundation of their case - calculations that showed that claimant was only eligible for a lower amount of FIP than what she actually received. The Department did not even submit evidence to show that claimant received FIP during the month in question. Without these calculations, the undersigned cannot hold that claimant was overissued FIP benefits. The undersigned will not accept

blanket testimony stating that claimant was only eligible for a certain amount of FIP benefits; these amounts must be proven, preferably by the budgets which show how these amounts were calculated.

Therefore, as there is no evidence showing that claimant was overissued benefits, the undersigned must hold that the claimant was not overissued benefits and, therefore, recoupment must be denied.

Therefore, for the above-stated reasons, recoupment must be denied.

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**

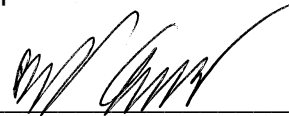
The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department

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. Recoupment of FIP benefits is DENIED.
2. Supplement to claimant any FIP benefits already recouped as a result of the above-stated matter.



**Robert J. Chavez**  
Administrative Law Judge  
for Maura Corrigan, Director  
Department of Human Services

Date Signed: April 25, 2012

Date Mailed: April 25, 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

RJC/pf

cc: 