

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

IN THE MATTER OF:

[REDACTED]

Reg. No.:

Issue No.:

[REDACTED]

[REDACTED]

ADMINISTRATIVE LAW JUDGE: Janice G. Spodarek

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37; MCL 400.43 (a); Michigan Admin Code, R 400.941 and MCL 24.201, et seq., upon a hearing request by the Department of Human Services (Department) to establish an over issuance (OI) of benefits to Respondent. After due notice, an in-person hearing was held on [REDACTED]. Participants on behalf of Claimant included Claimant. Participants on behalf of the department included [REDACTED], Recoupment Specialist and [REDACTED], [REDACTED].

Respondent did not appear. This matter having been initiated by the Department and due notice having been provided to Respondent, the hearing was held in Respondent's absence in accordance with Bridges Administrative Manual (BAM), Item 725. Other participants included .

Respondent appeared and testified.

ISSUE

Did Respondent receive an OI of FIP FAP SDA CDC benefits?

FINDINGS OF FACT

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

1. Respondent was a recipient of FIP FAP SDA CDC during the period from [REDACTED].

2. Respondent received a FIP FAP SDA CDC benefits during the period from [REDACTED], due to Department's Respondent's error.
3. The department stipulated at the administrative hearing that a referral on the system for an overissuance (OI) was made on [REDACTED]
4. The department stipulated at the administrative hearing that the next action on the case was not until [REDACTED] - that [REDACTED] from [REDACTED]. The department stipulated that it failed to follow DHS policy and procedure.
5. On [REDACTED], the DHS issued a Notice of Overissuance (DHS-4358-A) (Exhibit 12), a Department and Client Error Information and Repayment Agreement (DHS-4358-B) (Exhibit 13).
6. Claimant reported as required under his duties and requirements of policy. The department made an error in failing to correctly budget claimant's reported income during the period of time at issue.
7. Claimant filed a timely hearing request on [REDACTED].
8. The department alleges that claimant received an overissuance in FAP benefits during the time period at issue in the amount of \$1,457. Claimant does not dispute the calculation.
9. The department failed to act in this matter after a discovery was made documented by a written referral for over two years.

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 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 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, 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.

Applicable policy and procedure to the case herein is found in BAM Item 705-Agency Error Overissuances. That policy states on pages 3 & 4 in part:

FIP, SDA, CDC AND FAP

Within **60** days of receiving the referral, the RS must:

- Determine if an OI actually occurred.
- Determine the OI type.

Within **90** days of determining an OI occurred, the RS must:

- Obtain all evidence needed to establish an OI.
- Calculate the agency error amount.
- Establish the OI discovery date.
- Send a DHS-4358A, B, C & D to the client.
- Enter the FIP, SDA, CDC or FAP OI on the Benefit Recovery System (BRS).
- Send a DHS-4701A, Overissuance Referral Disposition, to the ongoing worker explaining the final disposition of the OI.

Exception: For **QC-discovered OIs**, the RS will have a total of **90** days from the date of receiving the referral to:

- Obtain all evidence needed to establish an OI.
- Calculate the OI amount.
- Start collection action on agency errors.

As noted above, the department policy indicates that the RS is required to act appropriate as required under policy and procedure within 90 days. In fact, the

department policy states that the recoupment specialist “must” take the appropriate actions.

This is consistent with federal regulations found at 7CFR273.18(d)(1) where the federal regulations indicate that the State agency must:

“...establish a claim before the last day of the quarter following the quarter in which the overpayment or trafficking incident was discovered... 7CFR273.18(d)(1).”

As noted in the Findings of Facts, the department stipulated at the administrative hearing that it failed to comply with its policy and procedure found in BAM 705. As noted above, this policy and procedure is consistent with federal law cited above. The department’s actions are 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 the Department properly improperly determined an overissuance for the FAP program

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that the Department did did not make the correct determination to establish a debt.

Accordingly, the Department is AFFIRMED REVERSED.

The department is ordered to remove the proposed overissuance and/or recoupment action in its system for the time period of [REDACTED].
It is **SO ORDERED**.

/s/ _____
Janice G. Spodarek
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: [REDACTED]

Date Mailed: [REDACTED]

NOTICE: The law provides that within 60 days from the mailing date of the above hearing Decision the Respondent may appeal it to the circuit court for the county in which he/she resides or has his or her principal place of business in this state, or in the circuit court for Ingham County. Administrative Hearings, on its own motion, or on request of a party within 60 days of the mailing date of this Hearing Decision, may order a rehearing.

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

JGS/jk

cc:



MAHS