

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201260870
Issue No.: 6052
Case No.: [REDACTED]
Hearing Date: August 22, 2012
County: Wayne (17)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

HEARING DECISION FOR INTENTIONAL PROGRAM VIOLATION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Department of Human Services' (Department) request for a hearing. After due notice, a telephone hearing was held on August 22, 2012, from Detroit, Michigan. The Department was represented by [REDACTED], Regulation Agent of the Office of Inspector General (OIG).

Participants on behalf of Respondent included: Respondent.

Respondent did not appear at the hearing and it was held in Respondent's absence pursuant to 7 CFR 273.16(e), Mich Admin Code R 400.3130(5), or Mich Admin Code R 400.3187(5).

ISSUES

Did Respondent receive an overissuance (OI) of

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

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. The Department's OIG filed a hearing request on February 28, 2012, to establish an OI of benefits received by Respondent as a result of Respondent having allegedly committed an IPV.
2. The OIG has has not requested that Respondent be disqualified from receiving program benefits.
3. Respondent was a recipient of FIP FAP SDA CDC MA benefits during the period of October 2006, through November 2007.
4. Respondent was was not aware of the responsibility to report changes in employment.
5. Respondent had no apparent physical or mental impairment that would limit the understanding or ability to fulfill this requirement.
6. The Department's OIG indicates that the time period they are considering the fraud period is January 7, 2007 through November 24, 2007.
7. During the alleged fraud period, Respondent was issued \$12,846 in FIP FAP SDA CDC MA benefits from the State of Michigan.
8. The OIG alleges that Respondent was entitled to \$0 in FIP FAP SDA CDC MA during this time period.
9. Respondent did did not receive an OI in the amount of \$12,846 under the FIP FAP SDA CDC MA program.
10. A notice of hearing was mailed to Respondent at the last known address and was was not returned by the US Post Office as undeliverable.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT). Prior to August 1, 2008, Department policies were contained in the Department of Human Services Program Administrative Manuals (PAM), Program Eligibility Manual (PEM), and Program Reference Tables (PRT).

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, R 400.3101 through R 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 Mich Admin Code, R 400.3001 through R 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 Mich Admin Code, R 400.3151 through R 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 Mich Admin Code, R 400.5001 through R 400.5015.

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 of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105.

At the hearing the Department clarified that it was pursuing a debt collection for CDC benefits it alleged Respondent was not eligible to receive. When a client group receives more benefits than they are entitled to receive, the Department must attempt to recoup the OI. BAM 700 (December 1, 2011), p 1. The amount of the OI is the benefit amount the client actually received minus the amount the client was eligible to receive. BAM 715 (December 1, 2011), pp 1, 5; BAM 705 (December 1, 2011), p 5.

At the hearing, the Department established that \$12,846 in CDC benefits were issued by the State of Michigan to Respondent from January 7, 2007 through November 24, 2007. The Department alleges that Respondent was not eligible for any CDC benefits because (i) she did not verify employment prior to October 26, 2007 and therefore had no need for CDC benefits; (ii) her employment, beginning October 26, 2007, was not verified where the employee wages were not verified; and (iii) Respondent's husband's income during the period at issue exceeded the applicable CDC income limit for a group size of five.

In order to be eligible for CDC benefits, each parent must have a need for such benefits. PEM 703 (July 1, 2006), p 1; PEM 703 (October 1, 2007), p 1. A valid need exists if the client needs child care to participate in an activity approved by the Department or Michigan Works or if the client is employed or self-employed and receives money

wages, self-employment profits or sales commissions within six months of the beginning of their employment. PEM 703 (July 1, 2006), p 1; PEM 703 (October 1, 2007), pp 8, 9. The need must be verified by the Department. PEM 703 (July 1, 2006), p 8-9, 10-11; PEM 703 (October 1, 2007), pp 9-10, 11.

In this case, Respondent was unable to establish a need for CDC benefits during the period at issue. On the application she signed on October 17, 2006, Respondent stated that she was employed at ██████████ for for 40 hours per week. However, at the hearing, Respondent testified that she was not employed between January 2007 and mid-May 2007. Although she testified that she began working for ██████████ in mid-May 2007, she admitted that she did not report her two-month employment with ██████████ to the Department. Respondent testified that she opened her own salon in October 2007. While CDC benefits are available to self-employed clients (PEM 703 (October 1, 2007), p 10), there was no evidence on the record that Respondent advised the Department of her self-employment prior to her December 4, 2007, application. Respondent's testimony and the Department's evidence also established that Respondent was not participating in any FIP-related employment activities between January 2007 and November 2007. Respondent's testimony and admissions established that, between January 7, 2007 and December 4, 2007, Respondent did not have a valid, verified need for CDC benefits. See PEM 703 (July 1, 2006), pp 3, 8-11; PEM 703 (October 1, 2007), pp 3, 8-12.

Furthermore, if a client is not categorically eligible for CDC benefits, the client must establish that the group's gross monthly income does not exceed the CDC income limit for the group size. PEM 703 (July 1, 2006), p 14; PEM 703 (April 1, 2007), p 14. The information submitted by Royal Cabinets, Respondent's husband's employer, in response to the Department's subpoena shows that Respondent's husband's gross earned income in May 2007, June 2007, August 2007, October 2007, and November 2007 exceeded the CDC income limit of \$2746 for a CDC group size of five. PRT 270 (November 1, 2006), p 1; PRT 270 (April 1, 2007), p 1. Although Respondent testified that her husband was not living with her in the home she shared with the children during the periods at issue, she acknowledged that she included him in her application for CDC benefits in the listing of household members and identified him as having earned income. It is further noted that on her application she stated that she could be reached at the number she identified as her husband's.

Based on the foregoing, the Department established that Respondent was not eligible for any of the CDC benefits that were issued on her behalf between January 7, 2007, and November 24, 2007. Thus, the Department is entitled to recoup the entire \$12,846 in CDC benefits paid during this period.

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, concludes that:

Respondent did did not receive an OI of program benefits in the amount of \$12,846 from the following program(s) FIP FAP SDA CDC MA.

The Department is ORDERED to

delete the OI and cease any recoupment action.

initiate recoupment procedures for the amount of \$12,846 in accordance with Department policy.

reduce the OI to _____ for the period _____, in accordance with Department policy.



Alice C. Elkin

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

Date Signed: September 10, 2012

Date Mailed: September 10, 2012

NOTICE: The law provides that within 30 days of receipt of the above Decision and Order, the Respondent may appeal it to the circuit court for the county in which he/she lives.

ACE/hw

cc:

