

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

IN THE MATTER OF:

████████████████████
████████████████████
████████████████████

Reg. No.: 2012-61890
Issue No.: 4060
Case No.: ██████████
Hearing Date: October 8, 2013
County: Muskegon

ADMINISTRATIVE LAW JUDGE: Carmen G. Fahie

HEARING DECISION

Upon a hearing request by the Department of Human Services (Department) to establish an overissuance (OI) of benefits to Respondent, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9, 400.43a, and 24.201, *et seq.*, and Mich Admin Code, R 400.941, and in accordance with 7 CFR 273.15 to 273.18, 42 CFR 431.200 to 431.250, 45 CFR 99.1 to 99.33, and 45 CFR 205.10. After due notice, a telephone hearing was held on Tuesday, October 8, 2013, from Lansing, Michigan. Participants on behalf of the Department included Michele Welch, RS, and Wanda Metzler, APSup.

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 Department of Human Services Bridges Administrative Manual (BAM) 725 (), pp. 13-17.

Participants on behalf of Respondent included the Respondent and her ██████████, ██████████.

ISSUE

Did Respondent receive an OI of

- | | |
|---|--|
| <input type="checkbox"/> Family Independence Program (FIP) | <input type="checkbox"/> State Disability Assistance (SDA) |
| <input checked="" type="checkbox"/> Food Assistance Program (FAP) | <input type="checkbox"/> Child Development and Care (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 benefits from the Department.
2. The Department alleges Respondent received a FIP FAP SDA CDC OI during the period May 1, 2010, through *April 30, 2011*, due to

Department's error Respondent's error.

3. The Department alleges that Respondent received a [REDACTED] OI that is still due and owing to the Department.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), and Department of Human Services Reference Tables Manual (RFT).

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10 and 400.57a and Mich Admin Code, R 400.3101 to .3131.

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food Stamp Act of 1977, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 271.1 to 285.5. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10 and Mich Admin Code, R 400.3001 to .3015.

The State Disability Assistance (SDA) program is established by the Social Welfare Act, MCL 400.1-.119b. The Department of Human Services (formerly known as the Family Independence Agency) administers the SDA program pursuant to MCL 400.10 and Mich Admin Code, R 400.3151-.3180.

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, 42 USC 601-619, 670-679c, and 1397-1397m-5; the Child Care and Development Block Grant of 1990, PL 101-508, 42 USC 9858 to 9858q; and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193. The program is implemented by 45 CFR 98.1-99.33. The Department administers the program pursuant to MCL 400.10 and provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001-.5020.

Additionally, the Respondent was a recipient of FAP benefits. Due to Department error, the Respondent's reported earned income was not budgeted in determining her FAP benefits. As a result, the Respondent received an overissuance of FAP benefits of [REDACTED] during the contested time period of [REDACTED], which the Department is required to recoup. BAM 105, 700-725. BEM 500-556.

During the hearing, the Respondent stated that she should not have to pay the overissuance back because she did report the earned income to the Department as is required in policy. The overissuance is over the \$125 threshold that would not require repayment due to Department error.

**AGENCY ERROR OVERISSUANCES, BAM 705
AGENCY ERROR EXCEPTIONS**

FIP, SDA and FAP Only - Page 2

The agency error threshold was raised to \$250 from \$125 with an effective date of December 1, 2012.

The agency error threshold was lowered to \$125 from \$500 with a retroactive date of August 1, 2008. If the agency error includes some prior months to August 2008 then the \$500 threshold applies. If all months of the error fall after August 2008, the \$125 threshold applies until November 30, 2012.

Example: Jacob Andrew was found to have an agency error for the period of June 2008 through August 2008. Since some of the months fall prior to August 2008, the old \$500 threshold applies.

Example: Joshua Allen was found to have an agency error for the period of August 2008 through November 2008. Since all months fall after August 2008, the \$125 threshold applies.

THEREFORE, the Department has met their burden that the Respondent received an overissuance of FAP benefits that the Department is required to recoup

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that the Department did did not establish a FIP FAP SDA CDC benefit OI to Respondent totaling [REDACTED].

DECISION AND ORDER

Accordingly, the Department is

- AFFIRMED.**
- REVERSED.
- AFFIRMED IN PART with respect to _____ and REVERSED IN PART with respect to _____.
- The Department is ORDERED to initiate collection procedures for a [REDACTED] OI in accordance with Department policy.

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

Date Signed: 10/24/2013

Date Mailed: 10/25/2013

NOTICE OF APPEAL: 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 or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

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).

A Request for Rehearing or Reconsideration may be granted when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The Department, AHR or the Claimant must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date the hearing decision is mailed.

The written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-07322

CGF/pw

cc: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]