

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

IN THE MATTER OF:



Reg. No.: 201264466
Issue No.: 6052
Case No.: [REDACTED]
Hearing Date: September 27, 2012
County: Wayne (43)

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 September 27, 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 July 18, 2012, to establish an OI of benefits received by Respondent.
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 relevant period at issue.
4. Respondent was was not aware of the responsibility to report employment changes.
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 August 6, 2006 to December 23, 2006.
7. During the alleged fraud period, Respondent was issued \$6697 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 \$6697 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 the 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 Reference Schedules Manual (RFS).

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 seeking to recoup 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 presented documentation showing that, between August 6, 2006, and December 23, 2006, the Department issued CDC benefits on Respondent's behalf for two children, [REDACTED], totaling \$4465. The evidence did not show any CDC benefits issued for a third child [REDACTED] during the period between August 6, 2006, and December 23, 2006. Therefore, the maximum amount of CDC benefits the Department can possibly recoup if it can establish an overissuance is limited to \$4465.

At the hearing, the Department contended that Respondent was not eligible for any CDC benefits between August 6, 2006, and December 23, 2006, because she was not employed during that period. In order to be eligible for CDC benefits, a client must have a need for such benefits. PEM 703 (July 1, 2006), p 1. A valid need exists if the

client is employed and receives money wages. PEM 703 (July 1, 2006), p 1. The need must be verified by the Department. PEM 703 (July 1, 2006), p 8-9, 10-11.

In this case, the Department presented a Verification of Employment (VOE) [REDACTED] returned to the Department in response to a subpoena that showed that Respondent's employment at [REDACTED] ended on July 25, 2006. Respondent appeared at the hearing and contended that she continued to be employed after her employment at [REDACTED] ended and that she had informed her worker of her continued employment. The Department did not run a wage match or present any other documentation to counter Respondent's testimony that she continued to be employed after her employment at [REDACTED] ended. While the July 6, 2006, application signed by Respondent that the Department presented into evidence showed that Respondent identified her employer as [REDACTED] at the time she completed her application, Respondent was in fact employed by [REDACTED]. In the absence of any evidence to counter Respondent's credible testimony that she continued to be employed, the Department failed to satisfy its burden of showing that Respondent did not have a need for CDC benefits. Thus, the Department is not entitled to recoup the CDC benefits issued on Respondent's behalf between August 6, 2006, and December 23, 2006.

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 \$6697 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 \$ _____ 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: 10/17/2012

Date Mailed: 10/17/2012

201264466/ACE

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:

