

STATE OF MICHIGAN  
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES  
ADMINISTRATIVE HEARINGS FOR THE  
DEPARTMENT OF HUMAN SERVICES

**IN THE MATTER OF:**



Reg. No.: 201272356  
Issue No.: 1000  
Case No.: [REDACTED]  
Hearing Date: March 14, 2013  
County: Macomb 20

**ADMINISTRATIVE LAW JUDGE:** Gary F. Heisler

**HEARING DECISION**

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; and MCL 400.37 upon claimant's request for a hearing. After due notice, a hearing was held on March 14, 2013. Claimant appeared and testified.

**ISSUE**

Did the Department of Human Services over-issuance Claimant \$ [REDACTED] of Family Independence Program (FIP) benefits due to agency error between March 1, 2012 and August 31, 2012?

**FINDINGS OF FACT**

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

- (1) On August 10, 2012, Claimant was sent a Notice of Over-Issuance (DHS-4358).
- (2) On August 16, 2012, Claimant sent in her Hearing Request for Over-Issuance or Recoupment Action (DHS-4358-D).
- (3) On August 23, 2012, the Department of Human Services local office sent hearing packet to Michigan Administrative Hearing System (MAHS).

**CONCLUSIONS OF LAW**

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 8 USC 601, *et seq.* The Department of Human Services (DHS or department)

administers the FIP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3101-3131. The FIP program replaced the Aid to Dependent Children (ADC) program effective October 1, 1996. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

During this hearing several issues were identified which prevent completion of this hearing. Claimant's Family Independence Program (FIP) was closed beginning September 1, 2012. In accordance with Department of Human Services Bridges Administration Manual (BAM) 725 Collection Actions (2012) pages 13 -17 under Debt Collection Hearings the Department was required to request a Debt Collection Hearing. The notice and hearing requirements for a Debt Collection Hearing are quite different from the requirements for a recoupment hearing.

Collection actions on active cases are limited to voluntary cash payments from the ongoing recipient or withholding of a small percentage from the recipient's ongoing benefits. (BAM 725 pages 5 – 7) Collection actions on inactive cases go outside DHS and can occur through: Probate Court; State Tax refund offsets; lottery winning offsets; offsets of Federal salaries, retirement benefits, compensation benefits, and tax returns; garnishment of wages; and liens on bank accounts. (BAM 725 pages 7 – 10) Collection actions outside of DHS require more stringent notice and hearing requirements prior to a Debt Collection Hearing. This hearing was not properly noticed as a Debt Collection Hearing.

The Department should also correct the evidentiary problems with the record before pursuing a Debt Collection Hearing. Specifically there are no over-issuance budgets in evidence.

### **DECISION AND ORDER**

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides this Department action cannot be heard as a recoupment action.

It is ORDERED that the actions of the Department of Human Services, in this matter, are **REVERSED**.

/s/ \_\_\_\_\_  
Gary F. Heisler  
Administrative Law Judge  
for Maura D. Corrigan, Director  
Department of Human Services

Date Signed: 4/9/13

Date Mailed: 4/10/13

**NOTICE:** Administrative Hearings 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. Administrative Hearings 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.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing 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.

GFH/tb

cc:

