

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

IN THE MATTER OF:



Reg. No.: 2013 38024
Issue No.: 3052, 1030
Case No.: [REDACTED]
Hearing Date: April 25, 2013
County: Wayne (43)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37; MCL 400.43 (a); Mich Admin Code, R 400.941 and MCL 24.201, et seq., upon a hearing request by the Claimant regarding the Department of Human Services' (Department) actions to establish an over-issuance (OI) of benefits to Respondent. After due notice, a hearing was held on April 25, 2013.

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 [REDACTED] Recoupment Specialist.

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 January 2012 through January 31, 2012 (FIP) and January 2012 through October 2012 (FAP).

2. The Department claims that the Respondent received a FIP FAP SDA CDC OI during the period January 2012 through January 31, 2012 (FIP) and January 2012 through October 2012 (FAP), due to Department's Respondent's error.
3. \$818 FIP and \$2,058 FAP of the OI total of \$2,876 is still due and owing to the Department.
4. The Department seeks a FIP and FAP overruling due to increase in group composition and increase in household income.
5. The Claimant advised the Department in a redetermination dated and signed by the Claimant on January 2, 2012 that Claimant's spouse was residing with him and that she was employed with wages which were reported. Exhibit 2
6. The Claimant also provided the Department, in support of Claimant's application for SER for a furnace, a sales agreement for the purchase of a home.
7. The Claimant, in support of the SER application, provided a verification of Employment for his spouse dated January 16, 2012. Exhibit 7
8. The Claimant also filed a SER application online on November 14, 2011 which indicated that he was living at [REDACTED] and that his wife was also living there. The Claimant's SER application sought furnace repair. Exhibit 5.
9. The Claimant requested a hearing on January 23, 2013 protesting the Department's recoupment of FIP and FAP benefits.

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 AACRS, 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.

Additionally, in this case the Claimant on several occasions represented to the Department that he and his wife were living together and that his wife was employed. The first time the Claimant made this representation was when he filed an application for SER for a furnace repair for a house purchased by Claimant and his wife. The Claimant also completed a redetermination in January 2012 wherein he again represented that he and his wife were residing together and were residing in the home they had purchased. The Claimant essentially argues that because he and his wife did not begin living together until February 2012, the Department improperly sought recoupment for January FIP and FAP benefits.

The Claimant signed several statements attesting that he and his wife were living together, but now testifies at the hearing they were not living together in January 2012. The Claimant cannot have it both ways. On the one hand, Claimant states in writing that he and his wife were living together for purposes of seeking SER and demonstrating income. On the other hand, for purposes of benefit calculation, he and his wife were not living together in January 2012. Essentially, when the Claimant filed the SER application in November, this constituted a change in circumstance requiring the Department to verify income and group composition. Again with the filing of the redetermination, the Department for the second time was given notice by the Claimant that there was a change in group composition and income. Based on these facts the Department did establish that the Claimant received an overissuance of both FIP and FAP benefits beginning January 2012 due to the changes reported in both income and group size.

The Department reasonably relied on Claimant's several representations and calculated the FIP and FAP benefits accordingly to include the Claimant's wife's income and add her as a group member. The FAP benefits were overissued due to the Department's failure to recalculate the FAP benefits after the changes were reported. This error by the Department does not excuse the Claimant from having to repay the overissuance of both FIP and FAP benefits. At the hearing a review of the income used to calculate

benefits and the budgets prepared to determine the over issuance was made and it is determined that the Department's evidence did establish that the overissuance amounts were correct and properly calculated. Exhibit 3.

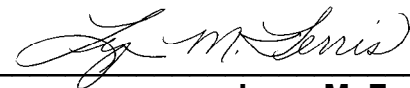
Based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, the Administrative Law Judge concludes that the Department properly improperly determined that Respondent received an \$818 FIP and \$2058 FAP OI of FIP FAP SDA CDC benefits.

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 AFFIRMED IN PART with respect to its determination of the overissuance of FIP benefits of \$818 and FAP benefits in the amount of \$2058 for a total of \$2876 and action to seek debt collection.

The Department is ORDERED to initiate collection procedures in accordance with Department policy.



Lynn M. Ferris
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: April 30, 2013

Date Mailed: April 30, 2013

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
Re consideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

LMF/cl

cc:

