

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2012-76976
Issue No.: 3020
Case No.: [REDACTED]
Hearing Date: October 16, 2013
County: Cass

ADMINISTRATIVE LAW JUDGE: Susanne E. Harris

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 October 16, 2013, from Lansing, Michigan. Participants on behalf of the Department included Recoupment Specialist (RS), [REDACTED] and Office Manager, [REDACTED] and General Office Assistant, [REDACTED] of the Berrien County DHS office.

Participants on behalf of Respondent included [REDACTED] and his [REDACTED].

ISSUE

Did Respondent receive an OI of Family Independence Program (FIP) State Disability Assistance (SDA) Food Assistance Program (FAP) 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 July 1, 2011, through July 31, 2011, due to Department's error.

3. The Department alleges that Respondent received a \$ [REDACTED] 00 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 9858g; 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, Bridges Administrative Manual (BAM) 705 (2011) p.1, defines an agency error OI as caused by incorrect actions (including delayed or no action) by the Department of Human Services (DHS) or the Department of Information and Technology staff or department processes. BAM 705 pp. 2, 3, provides that agency error OIs are not pursued if the OI amount is under \$125 per program. Upon discovery of an OI, it instructs department workers to take immediate action to correct the current benefits, to obtain initial evidence that an OI potentially exists and to determine if the OI was caused by department, provider or client actions, and to refer agency errors of \$125 or more to the Recoupment Specialist (RS) within 60 days of suspecting an OI exists. BEM 705 p. 4, provides that the RS has a total of 90 days to start collection action on agency errors.

The uncontested facts in this case are that the Respondent had reported new earnings on an SER application in May of 2011, yet the Department failed to process this change until [REDACTED]. This resulted in an OI for the month of [REDACTED] in the amount of \$ [REDACTED]. The Respondent protested the Department's collection action, stating that it was unfair because he fulfilled his responsibilities and this is an error caused by the Department. While the Administrative Law Judge certainly understands the Claimant's allegation that the collection action is unfair because he fulfilled his reporting responsibilities, the Administrative Law Judge has no equity powers. The Administrative Law Judge determines that when the Department has established that the Respondent received an OI which the Department must now collect.

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that the Department did establish a FIP FAP SDA CDC benefit OI to Respondent totaling \$ [REDACTED].

DECISION AND ORDER

Accordingly, the Department is AFFIRMED.

The Department is ORDERED to initiate collection procedures for a \$ [REDACTED] OI in accordance with Department policy.

/s/

Susanne E. Harris
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 10/21/13

Date Mailed: 10/22/13

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

SEH/tb

cc:

