

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-20679
Issue No.: 4060
Case No.: [REDACTED]
Hearing Date: October 10, 2013
County: St. Clair

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 10, 2013, from Lansing, Michigan. Participants on behalf of the Department included Recoupment Specialist (RS), [REDACTED] and Family Independence Manager (FIM), [REDACTED].

Participants on behalf of Respondent included Rhonda Paeth and Betty Hiller.

ISSUE

Did Respondent receive an OI of

Family Independence Program (FIP)

Food Assistance Program (FAP)

benefits?

State Disability Assistance (SDA)

Child Development and Care (CDC)

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 September 11, 2011, through November 19, 2011, due to Respondent's error. The Department alleges Respondent received a FIP FAP SDA CDC OI during the period November 20, 2011, through December 1, 2012, due to Department's error.

3. The Department alleges that Respondent received a \$10,717.34 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, Bridges Administrative Manual (BAM) 700 (2011) p. 1, provides that when a client group receives more benefits than they are entitled to receive, DHS must attempt to recoup the OI. BAM 705 (2012) p. 1, provides that an agency error OI is caused by incorrect actions (including delayed or no action) by the Department or department processes. BAM 715 (2012) p.1, provides that a client/CDC provider error OI occurs when the client received more benefits than they were entitled to because the client/CDC provider gave incorrect or incomplete information to the department. BAM 725 (2012) pp. 14, 15, provide that the department is to request a debt collection hearing only when there is enough evidence to prove the existence and the outstanding balance of the selected OIs. Existence of an OI is shown by:

- A court order that establishes the OI, or

- A signed repay agreement, or
- A hearing decision that establishes the OI, or
 - If a repay, court/hearing decision cannot be located,
 - Copies of the budgets used to calculate the OI, and
 - Copies of the evidence used to establish the OI, and
 - Copies of the client notice explaining the OI.

The RS at the hearing was not the RS who took the action and requested the hearing in this matter. The Respondent testified that her worker informed her that Adoption Subsidy payments did not have to be counted. Her worker did later inform her that there had been a policy change and that Adoption Subsidy payments were now to be considered income. The Respondent testified that since that time, she has always reported her Adoption Subsidy payments. The Respondent testified that her CDC case had been riddled with errors regarding group composition. Sometimes her children were included in the group, but every two weeks one of the children would not be. The Respondent said she would then telephone her worker and it would be taken care of.

The Administrative Law Judge questioned the RS about this during the hearing. Specifically, the documents in evidence which specify which members were included in the certified CDC group were confusing. In those documents, by some of the names of the children there would be listed an "N" which indicates that particular child was not part of the group. The RS who took action in this case would cross out that "N" and write a "Y" instead. The RS who was present at hearing could not explain these notations or the OI budgets in evidence because that RS did not take the action. As such, the Administrative Law Judge determines that the evidence is insufficient to establish that the Respondent received an OI in the amount of \$ [REDACTED]

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

DECISION AND ORDER

Accordingly, the Department is REVERSED.

/s/

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

Date Signed: 10/28/13

Date Mailed: 10/28/13

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:

