

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-39969
Issue No.: 3052
Case No.: [REDACTED]
Hearing Date: July 31, 2013
County: Bay

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 July 31, 2013, from Detroit, Michigan. The Department was represented by [REDACTED]

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 checked="" type="checkbox"/> Food Assistance Program (FAP) |
| <input type="checkbox"/> State Disability Assistance (SDA) | <input 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. Respondent was a recipient of FIP FAP SDA CDC MA benefits during the relevant periods at issue.

2. On April 15, 2013, the Department's OIG filed a hearing request to establish that (1) Respondent committed an Intentional Program Violation (IPV) concerning her FAP benefits when she failed to report that she had moved out of state and (2) the Department was entitled to recoup \$2,340 in FAP benefits issued to Respondent between March 1, 2012, and March 31, 2013 (the "fraud period") while she was out of state.
3. This was Respondent's first second third alleged IPV.
4. 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 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 Department's OIG requests IPV hearings for the following cases:

- FAP trafficking OIs that are not forwarded to the prosecutor,
- prosecution of welfare fraud or FAP trafficking is declined by the prosecutor for a reason other than lack of evidence, and
 - the total OI amount is \$1000 or more, or
 - the total OI amount is less than \$1000, and
 - the group has a previous IPV, or
 - the alleged IPV involves FAP trafficking, or
 - the alleged fraud involves concurrent receipt of assistance,
 - the alleged fraud is committed by a state/ government employee.

BEM 720 (February 2013), p. 10.

At the hearing, the Department testified that it did not wish to pursue its IPV case against Respondent or seek to disqualify her from continued FAP eligibility. The Department testified that it wanted to limit the hearing to a recoupment of the OI. Therefore, the Department's April 15, 2013, request for an IPV hearing was dismissed and the hearing continued with respect to the alleged overissuance.

When a client group receives more benefits than they are entitled to receive, the Department must attempt to recoup the OI. BAM 700 (July 2013), 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 720, p. 6; BAM 715 (February 2013), pp. 1, 5; BAM 705 (February 2013), p. 5.

Clients are not eligible for FAP benefits if they do not reside in Michigan. BEM 220 (January 1, 2012), p. 1. At the hearing, the Department established that Respondent began using her Michigan-issued FAP benefits in [REDACTED] on January 25, 2012, and her out-of-state use continued until February 14, 2013, when she no longer received Michigan-issued FAP benefits. Respondent admitted that she was living in [REDACTED] and used her Michigan-issued FAP benefits in [REDACTED]. Because Respondent continued to receive Michigan-issued FAP benefits when she was no longer a Michigan resident, she received more benefits than she was entitled to receive and the Department was entitled to recoup those overissued benefits.

Determination of the first month of the OI period requires that the Department apply the 10-day client reporting period, the 10-day processing period, and the 12-day negative action suspense period. BAM 720, p. 6. Based on Respondent's out-of-state use beginning January 25, 2012, the Department properly concluded that the OI period began March 1, 2012. The Department alleged that Claimant was issued \$2,340 in FAP benefits between March 1, 2012, and March 31, 2012. However, a review of the eligibility summary identifies Respondent's benefits for February 2013 and March 2013 as "pending." A review of the FAP transaction history shows that Respondent received a FAP issuance in February 2013 but not in March 2013. Because Claimant did not receive the \$178 for March 2013 as shown on the eligibility summary, the OI amount is actually \$2,162. Thus, the Department is eligible to recoup only \$2,162.


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 \$2,162 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 \$1600 in accordance with Department policy.
- reduce the OI to \$2,162 in accordance with Department policy.



Alice C. Elkin
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: August 6, 2013

Date Mailed: August 6, 2013

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/pf

cc:

