

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

IN THE MATTER OF:



Reg. No.: 2013-5573
Issue No.: 3052
Case No.: [REDACTED]
Hearing Date: November 19, 2013
County: St. Clair

ADMINISTRATIVE LAW JUDGE: Susanne E. Harris

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 Department of Human Services (Department) to establish an over issuance (OI) of benefits to Respondent. After due notice, a telephone hearing was held on November 19, 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 Recoupment Specialist (RS), Rebecca Webber.

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 of July 26, 2011 and June 30, 2012.
2. The Department alleges that the Respondent received a FIP FAP SDA CDC OI, however; the record is not clear regarding the OI period or the actual amount of OI. The testimony at hearing was that the OI was due to an agency error.
3. The hearing summary was prepared by a worker who is now retired and the hearing was presented by an RS unfamiliar with the case. The hearing summary references an OI of \$ [REDACTED] for a one month issuance, yet it also indicates that the Respondent received FAP benefits for the months of December 2011 - July 1, 2012. The OI summary indicates that the Respondent received an OI for

the time period of November 1, 2011 to November 30, 2011. Yet, the Department submitted exhibits showing that the Respondent received an OI of \$ [REDACTED]. The RS testified that this was a mistake, but could not explain what the mistake was.

PROCEDURAL HISTORY:

4. On October 16, 2012, the Department submitted a request for a Debt Collection hearing.
5. On September 19, 2013, the Respondent was sent Notice of a Debt Collection Hearing scheduling a hearing for October 10, 2013.
6. On October 8, 2013, the Michigan Administrative Hearing System received the Respondent's request for an adjournment of the hearing and requesting he be allowed to participate by telephone.
7. On October 10, 2013, Supervising Administrative Law Judge [REDACTED] issued an [REDACTED].
8. On October 29, 2013, the Respondent was sent Notice of a Debt Collection Hearing, setting a hearing for November 19, 2013. That hearing was conducted in the Respondent's absence, as he failed to appear via telephone.

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 AACS, 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, Bridges Administrative Manual (BAM) 705 (2012) p. 5, provides that an OI period ends the month before the benefit is corrected. The amount of the OI is the benefit amount the group actually received minus the amount the group was eligible to receive. In this case, the Department has submitted conflicting evidence of what the OI period was and the amount of the actual OI. As such, the evidence does not establish the amount of the OI, nor does it establish the OI period.

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 improperly determined that Respondent received an 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 not make the correct determination to establish a debt.

Accordingly, the Department is AFFIRMED **REVERSED**.

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

Date Signed: 11/25/13

Date Mailed: 11/26/13

NOTICE OF APPEAL: 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).

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.

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:

