

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No.: 201367014  
Issue No(s): 1030  
Case No.: [REDACTED]  
Hearing Date: October 28, 2013  
County: Wayne (17)

**ADMINISTRATIVE LAW JUDGE:** Robert J. Chavez

**HEARING DECISION**

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 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 28, 2013, from Detroit, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of the Department of Human Services (Department) included Shameika Smith.

**ISSUE**

Did Claimant receive an overissuance of program 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. Claimant received benefits for:

- Family Independence Program (FIP).       State Disability Assistance (SDA).  
 Food Assistance Program (FAP).       Child Development and Care (CDC).

2. The Department determined that Claimant received a  
 FIP  FAP  SDA  CDC overissuance in the amount of \$775 during the period of [REDACTED] 2013, through [REDACTED] 2013.

3. The overissuance was allegedly due to  Department error.       client error.

4. On [REDACTED] 2013, the Department sent notice of the overissuance and a repayment agreement to Claimant/Claimant's Authorized Representative (AR).
5. On [REDACTED] 2013, Claimant/Claimant's Authorized Hearing Representative (AHR) filed a hearing request, protesting the Department's recoupment action.

### **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, the Department alleges that claimant did not report a change in income that happened in [REDACTED] until a semi-annual review conducted in [REDACTED] 2013. The Department further alleged that claimant verified the income in [REDACTED] 2013, which is when the overissuance amount finally stopped increasing.

However, a review of claimant's case file showed that claimant, at the very least, reported in [REDACTED] 2013. The exact date is unknown because the Department failed to date stamp claimant's submitted documents.

Furthermore, claimant testified credibly that the income in question was reported in [REDACTED] 2013, shortly after the income in question started. Given that claimant's file appeared disorganized at best, the undersigned finds claimant's testimony that the income was reported, but never acted upon, credible.

As such, the overissuance in the current case is, at most, agency error.

However, the Department has failed to enclose any calculations or budgets to show how the overissuance amount was arrived upon. As such, the Department has failed to provide evidence of an overissuance. Without evidence of an overissuance, the undersigned may not find overissuance of benefits, and will not authorize recoupment.

Therefore, because there is no evidence of overissuance, the undersigned finds that the Department has failed to meet their burden of proof in showing an overissuance of benefits, and declines to authorize a recoupment.

Based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, the Administrative Law Judge concludes that Claimant

- did receive an overissuance for  FIP  FAP  SDA  CDC benefits in the amount of \$ \_\_\_\_\_ that the Department is entitled to recoup.
- did not receive the overissuance for which the Department presently seeks recoupment.

**DECISION AND ORDER**

Accordingly, the Department's action seeking recoupment is:

- AFFIRMED.
- REVERSED.
- AFFIRMED IN PART with respect to \_\_\_\_\_ and REVERSED IN PART with respect to \_\_\_\_\_.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Remove the overissuance and recoupment from the claimant's benefit case, and return any benefits which have been thus far recouped.



\_\_\_\_\_  
**Robert J. Chavez**  
Administrative Law Judge  
for Maura Corrigan, Director  
Department of Human Services

2013-67014/RJC

Date Signed: 11/19/2013

Date Mailed: 11/19/2013

**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

RJC/hw

cc:

