

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201313088
Issue No.: 3008
Case No.: [REDACTED]
Hearing Date: January 7, 2013
County: Wayne (31)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Claimant's request for a hearing. After due notice, a telephone hearing was held on January 7, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and [REDACTED], Claimant's mother. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Family Independence Specialist.

ISSUE

Did the Department properly calculate and recoup an overissuance in Food Assistance Program (FAP) benefits issued to Claimant?

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 is an ongoing recipient of FAP benefits.
2. On June 28, 2012, Claimant reported employment that began on May 29, 2012.
3. The Department did not issue any FAP benefits to Claimant for up to two months to recoup FAP benefits it alleged were overissued to Claimant because she had failed to timely report her employment.
4. On September 12, 2012, Claimant filed a request for hearing disputing the Department's 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, 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 Mich Admin Code, R 400.3101 through R 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 Mich Admin Code, R 400.3001 through R 400.3015.

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105.

The Adult Medical Program (AMP) is established by 42 USC 1315, and is administered by the Department pursuant to MCL 400.10, *et seq.*

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 Mich Admin Code, R 400.3151 through R 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 Mich Admin Code, R 400.5001 through R 400.5015.

Additionally, when a client receives more benefits than they are entitled to receive, the Department must attempt to recoup the overissuance (OI). BAM 700 (December 1, 2011), p 1.

At the hearing, the Department testified that Claimant failed to timely report employment that began on May 29, 2012, because she did not report it until June 28, 2012, resulting in an overissuance of FAP benefits for July 2012. Clients must report income-related changes within 10 days of receiving their first payment. BAM 700, p 2; BAM 105 (), p 7. While Claimant verified that she reported her employment to the Department on June 28, 2012, the Department failed to establish at the hearing when Claimant received her first paycheck. The first month of the OI period takes into consideration the client reporting period, the Department's full standard of promptness for change processing (which is ten-days for FAP cases), and the full twelve-day negative action suspense period. BAM 715 (December 1, 2011), p 4; BEM 505 (October 1, 2010), pp 9-10. Because the Department failed to establish when Claimant received her first payment from her new employment, the Department did not satisfy its burden of showing that Claimant's delay in reporting her employment resulted in an overissuance for July 2012.

Furthermore, the Department did not include a copy of the Notice of Overissuance in the file submitted with its hearing summary. At the hearing, the Department was unable to identify the amount of the alleged overissuance, and it failed to present any evidence concerning the calculation of the overissuance, despite being given the opportunity during the hearing to do so. If improper reporting or budgeting of income caused the overissuance, the Department must use actual income for the overissuance month for that income source. BAM 715, p 6. In this case, the Department failed to produce any FAP OI budgets for the months during which it alleged an overissuance. In the absence of *any* evidence supporting a recoupment, the Department failed to satisfy its burden to show that it was entitled to a recoupment of FAP benefits from Claimant.

It is further noted that the Department's recoupment of overissued FAP benefits from an active FAP case is limited to 10% of the FAP allotment (or \$10, whichever is greater) for client error. BAM 725 (August 1, 2012), p 6. The evidence in this case established that the Department took a lump sum payment from Claimant's FAP benefits to recoup the alleged overissuance. Thus, the Department did not act in accordance with Department policy.

DECISION AND ORDER

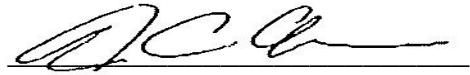
The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department

- did act properly.
- did not act properly.

Accordingly, the Department's decision is AFFIRMED REVERSED for the reasons stated on the record and above.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Begin issuing supplements to Claimants for FAP benefits it recouped from Claimant between June 2012 and August 2012.



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

Date Signed: January 14, 2013

Date Mailed: January 14, 2013

NOTICE: 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 was made, within 30 days of the receipt date of the rehearing decision.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
 - misapplication of manual policy or law in the hearing decision,
 - typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
 - the failure of the ALJ to address other relevant issues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail at
Michigan Administrative Hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

ACE/hw

cc:

