

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-25293
Issue No(s): 1006, 3006
Case No.: [REDACTED]
Hearing Date: February 11, 2014
County: Wayne County DHS #17

ADMINISTRATIVE LAW JUDGE: Colleen Lack

HEARING DECISION

Upon a hearing request by [REDACTED] 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 February 11, 2014, from Lansing, Michigan. Participants on behalf of the Department included [REDACTED] [REDACTED] Recoupment Specialist, and [REDACTED] [REDACTED] Hearing Coordinator.

Participants on behalf of Respondent included [REDACTED], the Respondent.

ISSUE

Did Respondent receive an OI of

Family Independence Program (FIP)

State Disability Assistance (SDA)

Food Assistance Program (FAP)

Child Development and Care (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 benefits from the Department.
2. The Department alleges Respondent received a FIP FAP SDA CDC OI during the period July 1, 2012, through July 31, 2012, due to Department's error Respondent's error.
3. The Department alleges that Respondent received a \$ [REDACTED] 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.

When a client group receives more benefits than it is entitled to receive, DHS must attempt to recoup the overissuance (OI). BAM 700, p 1 (12-1-2011). An overissuance (OI) is the amount of benefits issued to the client group or CDC provider in excess of what it was eligible to receive. For FAP benefits, an OI is also the amount of benefits trafficked (traded or sold). BAM 700, p 1 (12-1-2011).

An agency error OI is caused by incorrect action (including delayed or no action) by DHS staff or DIT staff or department processes. BAM 700, p 3 (12-1-2011). If unable to identify the type of OI, the Department records it as an agency error. BAM 700, p 3 (12-1-2011).

A client error OI occurs when the client received more benefits than they were entitled to because the client gave incorrect or incomplete information to the department. BAM 700, p 5 (12-1-2011).

A Claimant must report changes in circumstance that potentially affect eligibility or benefit amount. Changes must be reported within 10 days of receiving the first payment reflecting the change. BAM 105, p.7 (12/1/2011).

Client and Agency error OIs are not pursued if the estimated OI amount is less than \$ [REDACTED] per program. BAM 700, p 7 (12-1-2011).

Here, the Department contends that Respondent received an OI of FIP and FAP benefits due to an agency error. Specifically, the Department asserts that the Department failed to timely and properly re-determine Respondent's FIP and FAP eligibility after Respondent reported that she returned to work after a medical leave of absence. It was uncontested that the Respondent timely reported her return to work on April 19, 2012 and timely provided verification when it was requested in June 2012.

However, the Department's failure to timely re-determine the Respondent's eligibility resulted in OIs of FIP and FAP benefits in excess of the \$ [REDACTED] threshold for pursuing the OIs.

This Administrative Law Judge has carefully considered and weighed the testimony and other evidence in the record. The record evidence shows that the Department did err when it failed to timely re-determine Respondent's FIP and FAP eligibility status after she reported returning to work. In determining the OI period, the Department properly considered that the Respondent did not receive her first pay check after returning to work until May 4, 2012, the full timeframes allowed by policy for the reporting period, the standard of promptness and the negative action period suspension period. Accordingly, the Department determined the OI period is only the month of July 2012. When the income from the Respondent's return to work was included in the July 2012 budgets, the difference between the benefit amounts the Respondent received and the benefit amounts the Respondent was entitled to receive were \$ [REDACTED] for FAP and \$ [REDACTED] for FIP. Accordingly the total OI for July 2012 for both FIP and FAP was \$557.

The Respondent testified that the Department has already taken more than \$ [REDACTED] from her child support and tax return. (See also Exhibit 1)

The Recoupment Specialist testified that the Respondent had prior OI claims, which may have been the reason for the amounts the State has already taken. However, the claim statuses for the two July 2012 OI claims are still pending the administrative hearing outcome. (See Exhibit B, page 2)

The Department should ensure the \$ [REDACTED] withheld from the Respondent's 2012 tax return for State Agency Collections was a separate collection from the \$ [REDACTED] OI for the July 2012 FIP benefits at issue for this administrative hearing. (See Exhibit 1, page 2)

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

DECISION AND ORDER

Accordingly, the Department is

- AFFIRMED.**
 REVERSED.
 AFFIRMED IN PART with respect to _____ and REVERSED IN PART with respect to _____.

The Department is ORDERED to initiate collection procedures for a \$ [REDACTED] OI in accordance with Department policy. The Department should ensure the \$ [REDACTED] withheld from the Respondent's 2012 tax return for State Agency Collections was a separate collection from the \$ [REDACTED] OI for the July 2012 FIP benefits at issue for this administrative hearing.



Colleen Lack
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: February 19, 2014

Date Mailed: February 19, 2014

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

201325293/CL

CL/hj

cc:

