

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

IN THE MATTER OF:

████████████████████
████████████████████
████████████████████

Reg. No.: 2013-40873
Issue No.: 1030
Case No.: ██████████
Hearing Date: October 16, 2013
County: Oakland (03)

ADMINISTRATIVE LAW JUDGE: Susan C. Burke

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 16, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████, Recoupment Specialist, and ██████████, APS.

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).
2. The Department determined that Claimant received a FIP overissuance due to Claimant being "non-compliant with child support" from ██████████
██████ (Exhibit 2)
3. The Department determined that Claimant was in cooperation with child support matters on ██████████. (Claimant's Exhibit A)

4. On [REDACTED], the Department sent notice of the alleged overissuance to Claimant. (Exhibit 2)
5. On [REDACTED] [REDACTED] [REDACTED], Claimant filed a hearing request, protesting the Department's recoupment action.
6. At the hearing, the Department did not present a written notice to Claimant that she was in noncooperation with child support matters.

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.

BEM 255, p. 2 states:

Note: When OCS, FOC or a prosecuting attorney determines a client is in cooperation or noncooperation the determination is entered in Bridges via a systems interface. When the client is in noncooperation, Bridges will generate a notice closing the affected program(s) or reduce the client benefit amount in response to the determination.

In the present case, the Department issued a Notice of Overissuance to Claimant, stating that Claimant was non-compliant with child support during the period from [REDACTED] [REDACTED]. However, the Department did not establish that Claimant was in noncompliance status during that time period, and Claimant disputed the alleged dates of noncompliance. The only evidence the Department presented was a Bridges Child Support Non-Cooperation Summary (Exhibit 3B) and Michigan Child Support Enforcement System notes. (Exhibit 3H-J) The Bridges Child Support Non-Cooperation Summary shows a noncooperation date of August 19, 2011, but a Bridges Eligibility Summary (Exhibit 3A) shows payment of FIP benefits in September of 2011. No Notice of Case Action was presented by the Department showing FIP case closure after September of 2011 and the reason for case closure being noncooperation.

Clear evidence is shown that Claimant was found in cooperation with respect to child support. (July 12, 2012 Cooperation Notice, Exhibit A), but no clear evidence of a noncooperation begin date was presented. That is, the Department did not present a Noncooperation Notice for review by this Administrative Law Judge. Without a

Noncooperation Notice or a Notice of Case Action for review, it cannot be concluded that Claimant was non-compliant with child support during the period from [REDACTED]. Since it cannot be concluded that Claimant was non-compliant with child support during the period, it cannot be concluded that Claimant was issued FIP benefits in error during the period.

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 not receive the overissuance for which the Department presently seeks recoupment.

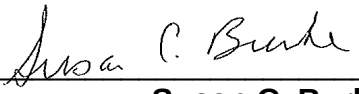
DECISION AND ORDER

Accordingly, the Department's action seeking recoupment is:

REVERSED.

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:

Delete the OI and cease any recoupment action.



Susan C. Burke
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: October 28, 2013

Date Mailed: October 28, 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

SCB/tm

cc:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]