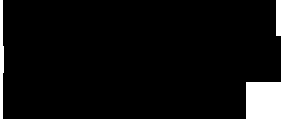
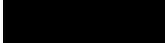


**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES**


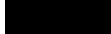
IN THE MATTER OF:



Reg. No.: 2013-54393
Issue No.: 3052
Case No.: 
Hearing Date: July 25, 2013
County: Genesee-02

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

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 July 25, 2013 from Lansing, Michigan. Claimant personally appeared and provided testimony. Participants on behalf of the Department of Human Services (Department) included   (Recoupment Specialist).

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. During the period of October 1, 2012 through April 30, 2013, Claimant received benefits for:

- | | |
|--|---|
| <input type="checkbox"/> Family Independence Program (FIP). | <input type="checkbox"/> State Disability Assistance (SDA). |
| <input checked="" type="checkbox"/> Food Assistance Program (FAP). | <input type="checkbox"/> Child Development and Care (CDC). |
| <input type="checkbox"/> Medical Assistance (MA). | |

2. The Department determined that Claimant received a FIP FAP MA SDA CDC overissuance in the amount of \$  during the period of October 1, 2012 through April 30, 2013.

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

4. On June 5, 2013, the Department sent notice of the overissuance and a repayment agreement to Claimant.
5. On June 17, 2013, Claimant filed a hearing request, protesting the Department's recoupment action.

CONCLUSIONS OF LAW

Department policies are found 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, R 400.3001 through Rule 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 (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105.

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 ACS, R 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, R 400.5001 through Rule 400.5015.

Departmental policy states that when the client group receives more benefits than the group is entitled to receive, the Department must attempt to recoup the overissuance (OI). BAM 700. Repayment of an OI is the responsibility of anyone who was an eligible,

disqualified, or other adult in the program group at the time the OI occurred. BAM 700. Recoupment is a Department action to identify and recover a benefit OI. BAM 700.

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 715.

For FAP purposes, all earned and unearned income available to an applicant or recipient is countable. BEM 500. Earned income means income received from another person or organization or from self-employment for duties that were performed for compensation or profit. BEM 500.

Wages are the pay an employee receives from another individual or organization. BEM 501. Wages include salaries, tips, commissions, bonuses, severance pay and flexible benefit funds not used to purchase insurance. BEM 501.

Individuals who run their own businesses are self-employed. BEM 501. This includes but is not limited to selling goods, farming, providing direct services, and operating a facility that provides services such as adult foster care home or room and board. BEM 501.

Here, the Department contends that Claimant started a non-profit organization and paid herself wages beginning August, 2012 through April, 2013 without timely and properly reporting the wages to the Department. Claimant does not dispute the Department's contention that she failed to timely and properly report her income or that there was an overissuance. Rather, Claimant she challenges the Department's determination regarding the amount of income she earned during the time period in question. Specifically, Claimant argues that this was a unique situation. Claimant started a 501(c)(3) organization that required her to arrange for a fiscal sponsor or fiduciary who is responsible for creating the appearance that Claimant had excess income. Claimant provided documentation from the Internal Revenue Service (IRS) and Ruth Mott Foundation, The Berston Bicycle Club Project, Crim Fitness Foundation and Kentakee Athletic & Social Clubs.

Testimony and other evidence must be weighed and considered according to its reasonableness. *Gardiner v Courtright*, 165 Mich 54, 62; 130 NW 322 (1911); *Dep't of Community Health v Risch*, 274 Mich App 365, 372; 733 NW2d 403 (2007). The weight and credibility of this evidence is generally for the fact-finder to determine. *Dep't of Community Health*, 274 Mich App at 372; *People v Terry*, 224 Mich App 447, 452; 569 NW2d 641 (1997). Moreover, it is for the fact-finder to gauge the demeanor and veracity of the witnesses who appear before him, as best he is able. See, e.g., *Caldwell v Fox*, 394 Mich 401, 407; 231 NW 2d 46 (1975); *Zeeland Farm Services, Inc v JBL Enterprises, Inc*, 219 Mich App 190, 195; 555 NW2d 733 (1996).

This Administrative Law Judge has carefully considered and weighed the testimony and other evidence in the record. The Department's documentation demonstrated that Claimant did receive an overissuance of FAP benefits in the amount of \$464.00 during

the period of October 1, 2012 through April 30, 2013. The Department provided copies of checks issued to Claimant from the organization. Claimant did not dispute that she failed to timely report to the Department her income from the non-profit organization. Claimant stated that she was too busy to report and that she had difficulty understanding the complexities involved with managing the 501(c)(3) organization. Claimant's contention that the paychecks did not truly reflect her income is not persuasive. In any event, Claimant should have reported the income timely and it was her failure to do so that resulted in the overissuance.

Based upon the above Findings of Fact and Conclusions of Law, the Administrative Law Judge concludes that Claimant did receive an overissuance for FIP FAP MA SDA CDC benefits in the amount of \$ [REDACTED] that the Department is entitled to recoup.

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

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that the Department did act properly. did not act properly.

Accordingly, the Department's decision is **AFFIRMED**. REVERSED.

/s/
C. Adam Purnell
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: July 26, 2013

Date Mailed: July 29, 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 affect the substantial rights of the claimant,
 - 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

CAP/las

cc:

