

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-51810
Issue No.: 3006
Case No.: [REDACTED]
Hearing Date: January 7, 2014
County: Jackson

ADMINISTRATIVE LAW JUDGE: Susanne E. Harris

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37; MCL 400.43 (a); Mich Admin Code, R 400.941 and MCL 24.201, *et seq.*, upon a hearing request by the Department of Human Services (Department) to establish an over issuance (OI) of benefits to Respondent. After due notice, a telephone hearing was held on January 7, 2014.

Respondent did not appear. This matter having been initiated by the Department and due notice having been provided to Respondent, the hearing was held in Respondent's absence in accordance with Bridges Administrative Manual (BAM), Item 725. Other participants included Recoupment Specialist (RS), [REDACTED].

ISSUE

Did Respondent receive an OI of FAP 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 FAP during the period of June 1, 2011 and January 31, 2012.
2. Respondent received a FAP OI during the period July 2011, through September 2011, due to Department's error.
3. \$ [REDACTED] of the OI is still due and owing to the Department.

CONCLUSIONS OF LAW

Department policies are contained 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, Rule 400.3001 through Rule 400.3015.

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 AACS, Rule 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, Rule 400.5001 through Rule 400.5015.

Additionally, when a client group receives more benefits than they are entitled to receive, the Department must attempt to recoup the OI. BAM 700 (2011), p. 1. An OI is the amount of benefits issued to the client group in excess of what they were eligible to receive. *Id.*

Recoupment is a DHS action to identify and recover a benefit OI. *Id.* For over-issued benefits to clients who are no longer receiving benefits, DHS may request a hearing for debt establishment and collection purposes. The hearing decision determines the existence and collectability of a debt to the agency. BAM 725 (2012), p. 13. OI balances on inactive cases must be repaid by lump sum or monthly cash payments unless collection is suspended. *Id.* at 6. Other debt collection methods allowed by DHS regulations include: cash payments by clients, expunged FAP benefits, State of Michigan tax refunds and lottery winnings, federal salaries, federal benefits and federal tax refunds. *Id.* at 7.

Establishing whether DHS or Respondent was at fault for the OI is of no importance to the collectability of over-issued FAP benefits because DHS may collect the OI in either scenario. Determining which party is at fault may affect the OI period.

For OIs caused by DHS error, the amount is affected by the full standard of promptness (SOP) for change processing and the negative action period. BAM 705 (2012), pp. 4-5. Clients must report changes in circumstance that potentially affect eligibility or benefit amount. BAM 105 (2012), p. 7. Changes must be reported within 10 days of receiving the first payment reflecting the change. *Id.* Other changes must be reported within 10 days after the client is aware of them. *Id.* For non-income changes, DHS is to complete the FAP eligibility determination and required case actions in time to affect the benefit month that occurs ten days after the change is reported. *Id.*

In this case, the RS testified that the error was an Agency error. However, the OI referral indicates that fraud is suspected. Based on the testimony of the RS, the Administrative Law Judge determines that the error is due to the Agency's failure to budget reported income. As such, the OI period does not start until 10 days to report, and then 10 days to act on such a report, has passed. Therefore, the Administrative Law Judge determines that the OI period has not been properly calculated and therefore benefits for July of 2011 should not be included in the OI amount.

Based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, the Administrative Law Judge concludes that the Department improperly determined that Respondent received a \$ [REDACTED] OI of FAP benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that the Department did not make the correct determination to establish a debt.

Accordingly, the Department is **REVERSED**.

/s/ _____
Susanne E. Harris
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 1/7/14

Date Mailed: 1/8/14

NOTICE OF APPEAL: 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 or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

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

SEH/tb

cc:

