

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 2014804
Issue No: 1000, 1006
Case No: [REDACTED]
Hearing Date: March 13, 2014
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Suzanne D. Sonneborn

HEARING DECISION

Upon a hearing request by the Department of Human Services (Department) to establish an over issuance (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 March 13, 2014 from Lansing, Michigan. Respondent appeared and provided testimony. The Department was represented by [REDACTED] a recoupment specialist with the Department's Wayne County office.

ISSUE

Whether Respondent received an over issuance of Family Independence Program (FIP) benefits that the department is entitled to recoup?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Respondent was a recipient of FIP benefits at all times relevant to this matter.
2. On August 30, 2013, the Department discovered that, due to client error, the Department failed to accurately budget Respondent's countable income because Respondent failed to timely report her employment at Gibraltar Trade Center to the Department.
3. Due to this reporting error, Respondent received an over issuance of FIP benefits. (Department Exhibit 7D, 7E)
4. On August 30, 2013, the Department mailed Respondent a written notice (DHS-4358-A) that she received an over issuance of FIP benefits in the amount of \$ [REDACTED] for the period August 1, 2012 through December 31, 2012.

5. On September 9, 2013, Respondent submitted a hearing request, protesting the department's determination that she must repay the FIP over issuance.
6. The Department provided the Administrative Law Judge with a hearing packet that contained the following: Hearing Summary, Respondent's Request for Hearing, Claim details, Claim summary, Employment budget summary, Employment-employer Bridges screen, Employment-employee Bridges screen, and Benefit summary inquiry. No other documents relating to the Department's debt collection hearing request were contained in the hearing packet, including the Notice of Over Issuance documents to Respondent, and the Over Issuance Budget establishing the amount of the over issuance (Hearing Packet)

CONCLUSIONS OF LAW

Clients have the right to contest a department decision affective eligibility for benefit levels whenever it is believed that the decision is incorrect. BAM 600. The department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. BAM 600. The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied. MAC R 400.903(1)

The application forms and each written notice of case action inform clients of their right to a hearing. BAM 600. These include an explanation of how and where to file a hearing request, and the right to be assisted by and represented by anyone the client chooses. BAM 600. The client must receive a written notice of all case actions affecting eligibility or amount of benefits. When a case action is completed it must specify:

- The action being taken by the department.
- The reason(s) for the action.
- The specific manual item(s) that cites the legal base for an action, or the regulation, or law itself; see BAM 220.

The Michigan Administrative Hearing System (MAHS) may grant a hearing on any of the following:

- Denial of an application and/or supplemental payments.
- Reduction in the amount of program benefits or service.
- Suspension or termination of program benefits or service.
- Restrictions under which benefits or services are provided.
- Delay of any action beyond standards of promptness.

- For FAP only, the current level of benefits or denial of expedited service. BAM 600.

For each hearing not resolved at a prehearing conference, the department is required to complete a Hearing Summary (DHS-3050). BAM 600. In the hearing summary, all case identifiers and notations on case status must be complete; see RFF 3050. The DHS-3050 narrative must include all of the following:

- Clear statement of the case action, including all programs involved in the case action.
- Facts which led to the action.
- Policy which supported the action.
- Correct address of the AHR or, if none, the client.
- Description of the documents the local office intends to offer as exhibits at the hearing. BAM 600.

During the hearing, the participants may give opening statements. BAM 600. Following the opening statement(s), if any, the ALJ directs the DHS case presenter to explain the position of the local office. BAM 600. The hearing summary, or highlights of it, may be read into the record at this time. BAM 600. The hearing summary may be used as a guide in presenting the evidence, witnesses and exhibits that support the Department's position. BAM 600. Department workers who attend the hearings are instructed to always include the following in planning the case presentation:

- An explanation of the action(s) taken.
- A summary of the policy or laws used to determine that the action taken was correct.
- Any clarifications by central office staff of the policy or laws used.
- The facts which led to the conclusion that the policy is relevant to the disputed case action.
- The DHS procedures ensuring that the client received adequate or timely notice of the proposed action and affording all other rights.

The ALJ determines the facts based only on evidence introduced at the hearing, draws a conclusion of law, and determines whether DHS policy was appropriately applied. The ALJ issues a final decision unless the ALJ believes that the applicable law does not support DHS policy or DHS policy is silent on the issue being considered. BAM 600. In that case, the ALJ recommends a decision and the policy hearing authority makes the final decision. BAM 600.

In the instant case, the Department requested a hearing to establish that Respondent received an over issuance of FIP benefits and to request recoupment of that over issuance amount. However, the Department failed to provide any documents establishing that the Department properly notified Respondent of the over issuance, nor did the Department provide any documents establishing how the Department calculated the FIP over issuance budget so as to warrant the amount of over issuance alleged by the Department. Without such documentation in the hearing packet, the Administrative Law Judge is unable to make a reasoned, informed decision regarding the issue at hand. It should be noted that the Department's representative, Minnie Egbuonu, did indeed recognize these shortcomings in the Department's case and took steps to submit additional documentation in support of the Department's case. However, she only did so by facsimile on the date of the hearing and 15 minutes *after* the scheduled hearing time, and such documents were not delivered to this Administrative Law Judge until after the conclusion of the hearing.

Accordingly, this Administrative Law Judge finds that the Department has failed to carry its burden of proof and did not timely provide information necessary to enable this ALJ to determine whether the Department followed policy as required under BAM 600.

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, is unable to decide whether the Department acted in accordance with policy in determining that Respondent received an over issuance of FIP benefits.

Therefore, the Department's August 30, 2013 determination that Respondent received an over issuance of FIP benefits is **REVERSED** and the Department is ORDERED to cease any collection procedures in this regard in accordance with Department policy.

It is **SO ORDERED**.



Suzanne D. Sonneborn
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: March 19, 2014

Date Mailed: March 20, 2014

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 60 days of the filing of the original request.

The Claimant may appeal this 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 errors, or other obvious errors in the hearing decision that effect the substantial rights of 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 System
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, MI 48909-07322

SDS/hj

cc:

