

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-17241
Issue No(s): 3006
Case No.: [REDACTED]
Hearing Date: April 23, 2014
County: Calhoun (21)

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

HEARING DECISION

Upon a hearing request by 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 April 23, 2014, from Detroit, Michigan. Participants on behalf of the Department included [REDACTED], Recoupment Specialist.

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 Department of Human Services Bridges Administrative Manual (BAM) 725 (July 2013), pp. 13-17.

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

ISSUE

Did Respondent receive an OI of

Family Independence Program (FIP)

State Disability Assistance (SDA)

Food Assistance Program (FAP) benefits?

Child Development and Care (CDC)

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 June 1, 2013, through September 30, 2013, due to Department's error Respondent's error.
3. The Department alleges that Respondent received a \$695 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 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.

Additionally, when a client group receives more benefits than they are entitled to receive, the Department must attempt to recoup the OI. BAM 700 (July 2013), p. 1. An agency error OI is caused by incorrect actions by the Department, including delayed or no action, which result in the client receiving more benefits than they were entitled to receive. BAM 700, p.4. A client error OI occurs when the client received more benefits than they were entitled to because the client gave incorrect or inaccurate information to the Department. BAM 700, p.6.

The amount of the OI is the benefit amount the client actually received minus the amount the client was eligible to receive. BAM 715 (July 2013), pp. 1, 6; BAM 705 (July 2013), p 6.

In this case, the Department alleges that Respondent received a \$695 client error caused OI in FAP benefits from June 1, 2013, to September 30, 2013, due to his failure to report earnings and employment at [REDACTED] from April 26, 2013, through September 27, 2013. The Department testified that the unreported earnings were discovered pursuant to a Wage Match on October 10, 2013, which indicated that Respondent earned \$2,505.78 during the second quarter of 2013 from his employment at PTS. There was no income listed for the third quarter of 2013, which would be the quarter at issue for the OI period, however. (Exhibit 1, p.20). Clients must report changes in circumstances, such as changes in income or employment that potentially affect eligibility or benefit amount within 10 days of receiving the first payment reflecting the change. BAM 105 (March 2013), p.7.

At the hearing, the Department established that the State of Michigan issued \$800 in FAP benefits to Respondent from June 1, 2013, to September 30, 2013. The Department alleges that Respondent was eligible for \$105 in FAP benefits during this period. (Exhibit 1, pp.4,6).

In support of its OI case, the Department presented verification of Respondent's employment at [REDACTED] which was provided by Respondent's employer, establishing that Respondent received his first and last paychecks on April 26, 2013, and September 27, 2013, respectively. (Exhibit 1, pp.16-18). Although the Department testified that the payroll register provided details Respondent's employment and earnings, the employee name was not clearly marked, as it appears to have been shaded out. Respondent confirmed that he was employed at [REDACTED] but could not verify that the document provided was his payroll register, as he could not see the name. (Exhibit 1, p.19).


The Department also provided FAP OI budgets for review. A review of the FAP OI budgets for each of the months at issue reveals that the income amounts relied on do not match the information earned on the wage match, since earnings from the third quarter are not reflected. Additionally, because it was not established that the payroll register belonged to Respondent, the income amounts could not be verified.

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that because of the discrepancies in the information presented, the Department did not establish a FAP benefit OI to Respondent totaling \$695.

DECISION AND ORDER

Accordingly, the Department is REVERSED.

The Department is ORDERED to delete the OI and cease any recoupment action.



Zainab Baydoun
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: May 15, 2014

Date Mailed: May 15, 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

ZB/tlf

cc:

