

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

IN THE MATTER OF:



Reg. No.: 2014-15322
Issue No(s): 3006
Case No.: [REDACTED]
Hearing Date: April 23, 2014
County: Genesee (02)

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 .

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 August 1, 2011, through September 30, 2011, and November 1, 2011, through December 31, 2011, due to Department's error Respondent's error.
3. The Department alleges that Respondent received a \$440 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 an OI in FAP benefits because he failed to timely report his employment at [REDACTED], causing an OI from August 1, 2011 through September 30, 2011 and his employment at [REDACTED], causing an OI from November 1, 2011, through December 31, 2011. 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 (January 2011), p.7.

At the hearing, the Department established that the State of Michigan issued \$400 in FAP benefits to Respondent from August 1, 2011, to September 30, 2011, as well as

\$400 in FAP benefits from November 1, 2011, to December 31, 2011. The Department alleges that Respondent was eligible for \$360 in FAP benefits during this period.

In support of its OI case for the period of August 2011 to September 2011, the Department presented a wage match for Respondent's employment at [REDACTED] showing that he earned \$3,083 in the third quarter of 2011. The Department stated that [REDACTED] did not return a completed Verification of Employment form, so the Department relied on the quarterly earnings found on the wage match to determine that Respondent earned \$1,027 in the months of August 2011 and September 2011. The Department presented verification of Respondent's employment at [REDACTED], which established that Respondent received his first pay check on September 23, 2011, and that he continued to be employed there throughout the month of December 2011.

The Department also provided FAP Net Income Results budgets for the period at issue showing that the earned income was not previously included in the calculation of Respondent's FAP benefits. A review of the FAP Worksheets for the periods at issue presented by the Department, along with the other documentary evidence, establish that when Respondent's unreported earned income is included in the calculation of his FAP budget, he was eligible to receive only \$360, based on the FAP income limits and his group size.


Thus, the Department is entitled to recoup or collect from Respondent \$440, the difference between the \$800 in FAP benefits actually issued to him and the \$360 in FAP benefits he was eligible to receive between August 1, 2011, and September 30, 2011 and November 1, 2011 and December 31, 2011.

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that the Department did establish a FAP benefit OI to Respondent totaling \$440.

DECISION AND ORDER

Accordingly, the Department is AFFIRMED.

The Department is ORDERED to initiate collection procedures for a \$440 OI in accordance with Department policy.



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

Date Signed: May 2, 2014

Date Mailed: May 2, 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:

