

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-17368
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 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 November 1, 2012, through December 31, 2013, due to Department's error Respondent's error.
3. The Department alleges that Respondent received a \$2772 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 \$2772 agency error caused OI in FAP benefits from November 1, 2012, to December 31, 2013. The Department testified that Respondent is subject to a permanent criminal justice disqualification, thereby making him ineligible for FAP benefits on the basis that he has been convicted of at least two drug related felonies since August 22, 1996. People convicted of certain crimes, fugitive felons, and probation or parole violators are not eligible for assistance. BEM 203 (October 2012), p. 1. For FAP cases, an individual convicted of a felony for the use, possession, or distribution of controlled substances two or more times in separate periods will be permanently disqualified if both offenses occurred after August 22, 1996. BEM 203, p.2.

The Department testified that on December 3, 2013, it became aware that Respondent had been convicted of two drug related felonies, each of which occurred after August 22, 1996. The Department stated that the OI was due to agency error, as the Department had failed to follow up on unanswered questions on Respondent's applications.

In support of its OI case, the Department presented evidence from the Michigan Department of Corrections Offender Tracking Information System (OTIS), showing that on June 1, 2007 and May 24, 2010, Respondent was sentenced after a conviction for two different drug related felonies, as defined by MCL 333.7401(2)(a)(iv) and MCL 333.7403(2)(a)(v). (Exhibit 1, pp.19-20). Respondent confirmed that the identifying information contained in the OTIS documents was accurate.

At the hearing, the Department established that the State of Michigan issued \$2772 in FAP benefits to Respondent from November 1, 2011, to December 31, 2013, and that Respondent was eligible to receive \$0 in FAP benefits, as he was subject to a permanent disqualification. (Exhibit 1, pp.12-14). The Department properly stated that according to BAM 705, the OI period is to begin 12 months before the date the OI was referred to the recoupment specialist, or in this case, 12 months prior to December 2013. BAM 705, pp.4-5.

Thus, the Department is entitled to recoup or collect from Respondent \$2772, the difference between the \$2772 in FAP benefits actually issued to him and the \$0 in FAP benefits he was eligible to receive between November 2012 and December 2013.

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 \$2772.

DECISION AND ORDER

Accordingly, the Department is AFFIRMED.

The Department is ORDERED to initiate collection procedures for a \$2772 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:

