

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

IN THE MATTER OF:



Reg. No.: 201432120
Issue No.: 1006, 3006
Case No.: [REDACTED]
Hearing Date: June 24, 2014
County: Genesee

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

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 June 24, 2014 from Lansing, Michigan. Participants on behalf of the Department included [REDACTED] (Recoupment Specialist). Participants on behalf of Respondent included [REDACTED] (Respondent) and Daniel Parra (Respondent's spouse).

ISSUE

Did Respondent receive an overissuance (OI) of Food Assistance Program (FAP) and Family Independence Program (FIP) 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 and FIP benefits from the Department.
2. The Department alleges Respondent received a FIP OI during the period of December 1, 2012 through June 30, 2013 due to Department's error.
3. The Department alleges Respondent received a FAP OI during the period of December 1, 2012 through April 30, 2013 due to Department's error.

4. The Department alleges that Respondent received a [REDACTED] FIP OI that is still due and owing to the Department.
5. The Department alleges that Respondent received a [REDACTED] FAP OI that is still due and owing to the Department.
6. The Department requested a hearing on March 12, 2014.

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 Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10 and 400.57a and Mich Admin Code, R 400.3101 to .3131.

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.

When a client group receives more benefits than it is entitled to receive, DHS must attempt to recoup the overissuance (OI). BAM 700, p 1 (8-1-2012). An overissuance (OI) is the amount of benefits issued to the client group or CDC provider in excess of what it was eligible to receive. For FAP benefits, an OI is also the amount of benefits trafficked (traded or sold). BAM 700, p 1 (8-1-2012).

An agency error OI is caused by incorrect action (including delayed or no action) by DHS staff or department processes. BAM 700, p 4 (8-1-2012). If unable to identify the type of OI, the Department records it as an agency error. BAM 700, p 4 (8-1-2012).

A client error OI occurs when the client received more benefits than they were entitled to because the client gave incorrect or incomplete information to the department. BAM 700, p 6 (8-1-2012).

Here, the Department contends that Respondent received an OI of FIP and FAP benefits due to an agency error. The Department alleges that Respondent properly and timely reported earned income from [REDACTED], but the Department failed to properly budget this income. Respondent, on the other hand, argues that the policy that requires the client to repay a department error OI is unfair.

Testimony and other evidence must be weighed and considered according to its reasonableness. *Gardiner v Courtright*, 165 Mich 54, 62; 130 NW 322 (1911); *Dep't of Community Health v Risch*, 274 Mich App 365, 372; 733 NW2d 403 (2007). The weight and credibility of this evidence is generally for the fact-finder to determine. *Dep't of Community Health*, 274 Mich App at 372; *People v Terry*, 224 Mich App 447, 452; 569 NW2d 641 (1997). Moreover, it is for the fact-finder to gauge the demeanor and veracity of the witnesses who appear before him, as best he is able. See, e.g., *Caldwell v Fox*, 394 Mich 401, 407; 231 NW2d 46 (1975); *Zeeland Farm Services, Inc v JBL Enterprises, Inc*, 219 Mich App 190, 195; 555 NW2d 733 (1996).

This Administrative Law Judge has carefully considered and weighed the testimony and other evidence in the record. This Administrative Law Judge will initially address Respondent's concerns regarding the Department's policies concerning collection for department error OIs. Respondent's grievance is not within the scope of authority delegated to this Administrative Law Judge.

Administrative law judges have no authority to make decisions on constitutional grounds, overrule statutes, overrule promulgated regulations or overrule or make exceptions to the department policy set out in the program manuals. See Delegation of Hearing Authority, August 9, 2002, per PA 1939, Section 9, Act 280. Rather, 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.

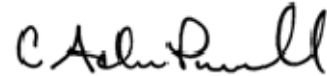
In this matter, the record evidence shows that the Department did, in fact, fail to properly budget Respondent's earned income from employment from Sam's Club. Although Respondent's household properly and timely reported this income, the Work Number documents in the record, along with copies of the FIP and FAP budgets, demonstrate that the Department failed to include this income. These records show that the FIP OI was [REDACTED] and the FAP OI was [REDACTED]. The [REDACTED] FIP OI + [REDACTED] FAP OI = [REDACTED] total OI for both programs. The substantial, material and competent evidence, based on the whole record, indicates that Respondent did receive an OI of FIP and FAP benefits due to agency or Department error.

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that the Department did establish a FIP and FAP benefit OI to Respondent totaling [REDACTED]

DECISION AND ORDER

Accordingly, the Department is **AFFIRMED**.

The Department is ORDERED to initiate collection procedures for a [REDACTED] OI in accordance with Department policy.



C. Adam Purnell
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 07/08/2014

Date Mailed: 07/08/2014

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

2014-32120/CAP

Lansing, Michigan 48909-07322

CAP/sw

cc:

