

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-34534
Issue No(s): 1006
Case No.: [REDACTED]
Hearing Date: June 6, 2014
County: Oakland (03)

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

HEARING DECISION

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 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 5, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and her husband, [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Path Coordinator.

ISSUE

Did Claimant receive an overissuance of program benefits that the Department is entitled to recoup?

FINDINGS OF FACT

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

1. Claimant received benefits for:
 Family Independence Program (FIP). State Disability Assistance (SDA).
 Food Assistance Program (FAP). Child Development and Care (CDC).
2. The Department determined that Claimant received a
 FIP FAP SDA CDC overissuance in the amount of \$2008 during the period of July 1, 2013, through October 31, 2013.
3. The overissuance was due to Department error. client error.

4. On March 14, 2014, the Department sent notice of the overissuance and a repayment agreement to Claimant.
5. On March 25, 2014, Claimant filed a hearing request, protesting the Department's recoupment action.

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, Pub. L. No. 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Family Independence Agency) administers FIP pursuant to 45 CFR 233-260, MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3101 to .3131.

Additionally, when a client group receives more benefits than they are entitled to receive, the Department must attempt to recoup the OI. BAM 700 (May 2014), 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 (May 2014), pp. 1, 6; BAM 705 (May 2014), p 6.

In this case, the Department initially alleged that Claimant received an OI in FIP benefits in the amount of \$3012 from July 1, 2013, to October 31, 2013, due to the Claimant's error. On March 14, 2014, the Department sent Claimant a Notice of Overissuance informing her of the OI in the amount of \$3012. (Exhibit 1, pp. 21-24).

At the hearing, the Department sought to amend the OI amount, stating there was an error in its calculation. The Department testified that Claimant was actually issued \$2388 in FIP benefits during the period at issue and that the correct OI amount was \$2008. The Department testified that Claimant's failure to report income and employment caused the OI. 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 (July 2013), p.8.

In support of its OI case for the period of July 1, 2013 to October 31, 2013, the Department presented verification of employment and earning statements for both Claimant's and her husband's employment. The documents provided establish that Claimant was earning income in September 2013 and October 2013, and that her husband was earning income in August 2013 and September 2013. (Exhibit 1, pp. 11, 31-35). There was no verification of earned income for the month of July 2013 presented.

At the hearing, the Department established that the State of Michigan issued \$597 in monthly FIP benefits to Claimant from July 1, 2013 to October 31, 2013. The Department alleged that Respondent was eligible to receive \$95 in FIP benefits each month during this period. The only budget provided by the Department was the original FIP Income Test showing the \$597 in monthly FIP benefits. The Department failed to present FIP budgets showing that Claimant was eligible to receive \$95 in monthly FIP benefits. It was unclear from the evidence presented and the Department remained unable to explain exactly how the OI was determined in this case or what exact income amounts were relied on to make the determination that Claimant was eligible to receive \$95 in monthly FIP benefits for the period at issue. Thus, the Department has failed to satisfy its burden in establishing that Claimant was overissued FIP benefits in the amount of \$2008 and as such, is not entitled to recoupment.

Additionally, there was evidence presented that the Department had started administrative recoupment procedures and was already deducting FIP benefits from Claimant's current monthly FIP grant. (Exhibit 1, pp. 13-19). Because the Department has not established that it is entitled to recoupment, this action by the Department is improper.

Based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, the Administrative Law Judge concludes that Claimant did not receive the overissuance for which the Department presently seeks recoupment.


DECISION AND ORDER

Accordingly, the Department's action seeking recoupment is REVERSED.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Delete the OI and cease any FIP benefit recoupment action;

2. Issue supplements to Claimant for any FIP benefits that she was entitled to receive but did not based on the Department's improper administrative recoupment; and
3. Notify Claimant in writing of its decision.



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

Date Signed: June 30, 2014

Date Mailed: June 30, 2014

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides or has its principal place of business in the State, or the circuit court in Ingham County, within 30 days of the receipt date.

A party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (MAHS) within 30 days of the mailing date of this Hearing Decision, or MAHS may order a rehearing or reconsideration on its own motion.

MAHS may grant a party's Request for Rehearing or Reconsideration 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 party requesting a rehearing or reconsideration 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 this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, 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

2014-34534/ZB

ZB/tlf

cc:

