

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

IN THE MATTER OF:

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Reg. No.: 2014 33719
Issue No(s): 3006, 4006
Case No.: ██████████
Hearing Date: July 31, 2014
County: Macomb (20)

ADMINISTRATIVE LAW JUDGE: Jacquelyn A. McClinton

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, telephone hearing was held on July 31, 2014, from Detroit, Michigan. Participants on behalf of the Department included ██████████ ██████████, 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), p. 22.

ISSUE

Did Respondent receive an OI of Food Assistance Program (FAP) benefits?

Did Respondent receive an OI of State Disability Assistance (SDA) 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 benefits from the Department.
2. Respondent was a recipient of SDA benefits from the Department.

3. The Department alleges Respondent received a FAP OI during the period November 1, 2013 through January 31, 2014, due to Respondent's error.
4. The Department alleges Respondent received an SDA OI during the period November 1, 2013 through March 31, 2014, due to Respondent's error.
5. The Department alleges that Respondent received a \$567.00 FAP OI that is still due and owing to the Department.
6. The Department alleges that Respondent received a \$1,000.00 SDA 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 273. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001 to .3015.

The State Disability Assistance (SDA) program is established by the Social Welfare Act, MCL 400.1-.119b. The Department of Human Services (formerly known as the Family Independence Agency) administers the SDA program pursuant to 42 CFR 435, MCL 400.10 and Mich Admin Code, R 400.3151-.3180.

Department policy holds that individuals convicted of certain crimes, such as trafficking and drug-related felonies; probation or parole violators; and fugitive felons are not eligible for FAP or SDA assistance. BEM 203 (July 2013), p.1. The Department presented a printout from the Michigan Department of Corrections (MDOC) which showed that supervision of Respondent began on October 16, 2013 and that she was released on March 14, 2014. The Department testified that it confirmed Respondent's incarceration beginning October 16, 2013 with a release date of March 14, 2014. The Department also presented Respondent's Michigan driver's license. Although the birthday was different by two days, the picture on the driver's license appeared to be the same person pictured in the MDOC printout.

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.

The Department asserted that the FAP OI period is from November 1, 2013 through January 31, 2014 and the SDA OI period is from November 1, 2013 through March 31, 2014. At the time of incarceration, Respondent was no longer eligible to receive FAP benefits. The Department presented a benefit inquiry summary which showed that Respondent received SDA benefits from November 1, 2013 through March 31, 2014 in the amount of \$1,000.00. The Department also presented a benefit inquiry summary which showed that Respondent received FAP benefits from November 1, 2013 through January 31, 2014 in the amount of \$567.00.

Respondent requested a hearing regarding the OI. Respondent received notice of the hearing date. Respondent failed to appear and therefore did not offer any evidence which would indicate that she was not incarcerated from October 16, 2013 through March 13, 2014.


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 \$567.00. Further, the Department did establish a SDA benefit OI to Respondent totaling \$1,000.00.

DECISION AND ORDER

Accordingly, the Department is **AFFIRMED**.

The Department is **ORDERED** to initiate collection procedures for a \$567.00 FAP OI in accordance with Department policy.

The Department is **ORDERED** to initiate collection procedures for a \$1,000.00 SDA OI in accordance with Department policy.


JACQUELYN A. MCCLINTON
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: August 20, 2014

Date Mailed: August 20, 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

JAM/cl

cc: [REDACTED]
[REDACTED]
[REDACTED]
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