

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

IN THE MATTER OF:

██████████
██
██

Reg. No.: 2014-35198
Issue No(s): 1006
Case No.: ██████████
Hearing Date: September 8, 2014
County: Muskegon

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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 three-way telephone hearing was held on September 8, 2014, from Detroit, Michigan. Participants on behalf of the Department or DHS included ██████████ ██████████ Recoupment Specialist.

Participants on behalf of Respondent included Respondent, ██████████

ISSUE

Did Respondent receive an OI of

Family Independence Program (FIP)

State Disability Assistance (SDA)

Food Assistance Program (FAP)

Child Development and Care (CDC)

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 FIP FAP SDA CDC benefits from the Department.

2. The Department alleges Respondent received a
 FIP FAP SDA CDC
OI during the period May 1, 2009, through October 31, 2009, due to
 Department's error Respondent's error.
3. The Department alleges that Respondent received a \$2,656 (minus any payments applied) OI that is still due and owing to the Department.
4. On April 29, 2014, Respondent filed a hearing request, protesting the OI amount.

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.

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. The amount of the OI is the benefit amount the group or provider actually received minus the amount the group was eligible to receive. BAM 705 (July 2014), p. 6.

An agency error is caused by incorrect actions (including delayed or no action) by the Department of Human Services (DHS) staff or department processes. BAM 705, p. 1. Some examples are:

- Available information was not used or was used incorrectly.
- Policy was misapplied.
- Action by local or central office staff was delayed.
- Computer errors occurred.
- Information was not shared between department divisions such as services staff.
- Data exchange reports were not acted upon timely (Wage Match, New Hires, BENDEX, etc.).

BAM 705, p. 1. If the Department is unable to identify the type of record, it is an agency error. BAM 705, p. 1.

In this case, the Department alleges that Respondent received a FIP OI in the amount of \$2,656 (minus any payments applied) based on agency error for the time period of May 1, 2009 to October 31, 2009.

First, on March 4, 2013, the Department (DHS caseworker) sent Respondent a Notice of Overissuance, which alleged that Respondent received a FIP OI in the amount of \$4,032 during the period April 1, 2009 to September 30, 2009, due to agency error. See Exhibit 1, pp. 5-9. The Notice of Overissuance failed to allege the explanation for the agency error. See Exhibit 1, p. 5. The Department testified that the Notice of Overissuance was generated automatically due to a FIP supplement.

Second, the Department presented Respondent's application dated March 12, 2009. See Exhibit 1, pp. 11-24. In the application, Respondent reported three household members (Respondent, daughter, and granddaughter). See Exhibit 1, pp. 13-14.

Third, on April 21, 2014, the Department sent Respondent a Notice of Overissuance, which alleged that Respondent received a FIP OI in the amount of \$2,656 during the period May 1, 2009 to October 31, 2009, due to agency error. See Exhibit 1, pp. 33-37. However, the Notice of Overissuance contained a handwritten notation that stated \$1,126.85 of payments was already applied to the OI balance, which resulted in a current OI balance of \$1,529.15. See Exhibit 1, p. 33. The Notice of Overissuance alleged that Respondent failed to close cash when the daughter turned 18 and had graduated from high school. See Exhibit 1, p. 48.

It should be noted that the Department testified that it applied \$1,126.85 of payments already received to the alleged OI amount. The Department testified that when the original Notice of Overissuance was generated on March 4, 2013, Respondent was an active recipient with her granddaughter. Thus, the Department testified it began recoupment for the \$4,032 OI amount for the original time period of April 1, 2009 to September 30, 2009. See Exhibit 1, p. 5. However, as stated above, the Department sent the proper Notice of Overissuance for an OI balance of \$2,656 on April 21, 2014. See Exhibit 1, p. 33. The Department testified that it applied the \$1,126.85 of payments that were already received to the new OI alleged amount (\$2,656), which resulted in a current balance of \$1,529.15. See Exhibit 1, p. 33.

Fourth, the Department presented the daughter's Verification of School Enrollment dated February 18, 2009, which indicated her expected date of completion/graduation was January 22, 2009. See Exhibit 1, p. 10. Moreover, the Department testified that the daughter turned 18-years-old on March 17, 2009. See Exhibit 1, p. 1.

Ultimately, the Department argued that Respondent received FIP benefits for a group size of two (Respondent plus daughter). The Department testified that Respondent was no longer eligible for FIP benefits when her dependent child (daughter) turned 18-years-old and had graduated from high school. However, the Department contested that Respondent continued to receive FIP benefits even though there were no eligible children in the home.

At the hearing, Respondent did not dispute that her daughter graduated high-school on January 22, 2009 and that she had turned 18-years-old on March 17, 2009. Respondent's testimony included how the Department obtained the \$1,126.85 of payment already applied. Moreover, Respondent testified that she continued to receive FIP assistance when she obtained legal custody of her granddaughter. However, Respondent failed to indicate or provide evidence when she obtained legal custody.

Group composition is the determination of which individuals living together are included in the FIP eligibility determination group (EDG) and the FIP certified group (CG). BEM 210 (April 2009 and July 2009), p. 1. To be eligible for FIP, a child must live with a legal parent, stepparent or other qualifying caretaker. BEM 210, p. 1.

A dependent child is an unemancipated child who lives with a caretaker and is one of the following:

- Under age 18.
- Age 18 or 19 and a full-time high school student expected to graduate before age 20. See BEM 245, for definition of high school.

BEM 210, p. 1.

Based on the foregoing information and evidence, the Department established a FIP benefit OI to Respondent. The evidence presented that the Respondent's daughter was no longer an eligible child because she was not under the age of 18 and had graduated from high school. See BEM 210, p. 1. Even though Respondent notified the Department of her daughter's expected graduation date and age (Exhibit 1, p. 10), the Department can still proceed with recoupment based on agency error. As such, the evidence presented that Respondent received an OI of her FIP benefits based on agency error because her daughter was no longer an eligible child. See BEM 210, p. 1.

Applying the agency error overissuance period standard and in consideration that the daughter turned 18-years-old on March 17, 2009, the Department determined that the OI period began on May 1, 2009. See Exhibit 1, pp. 10 and 33. It is found that the Department applied the appropriate OI period begin date. See BAM 705, p. 5.

In establishing the OI amount, the Department presented a benefit summary inquiry showing that Respondent was issued FIP benefits by the State of Michigan from May 1, 2009 to October 31, 2009, totaling \$2,656. See Exhibit 1, pp. 25-27. Thus, the Department is entitled to recoup \$2,656 (minus any payments already received) of FIP benefits it issued to Respondent between May 1, 2009, to October 31, 2009.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that the Department did establish a FIP benefit OI to Respondent totaling \$2,656 (minus any payments already received).

Accordingly, the Department is AFFIRMED.

The Department is ORDERED to initiate collection procedures for a \$2,656 OI (minus any payments already received) in accordance with Department policy.



Eric Feldman
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: September 12, 2014

Date Mailed: September 12, 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:

2014-35198/EJF

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-07322

EJF/cl

cc: [REDACTED]
[REDACTED]
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