

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

IN THE MATTER OF:



Reg. No.: 14-12249
Issue No.: 1006; 3006
Case No.: [REDACTED]
Hearing Date: October 23, 2014
County: Genesee #6

ADMINISTRATIVE LAW JUDGE: Landis Y. Lain

HEARING DECISION

Upon a hearing request by the Department of Human Services (Department) to establish an over-issuance (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 October 23, 2014, from Lansing, Michigan. Participants on behalf of the Department included [REDACTED], Recoupment Specialist, acting as Hearings Facilitator.

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 pp. 13-17.

ISSUE

Did Respondent receive an OI of Family Independence Program (FIP) and Food Assistance Program (FAP) 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 and FAP benefits from the Department.
2. On [REDACTED], Respondent signed a DHS-1010 redetermination form for FIP and FAP. By doing so she acknowledged her rights and responsibilities.

3. On [REDACTED], the DHS-1010 redetermination form was submitted to the Department. Respondent reported that she was employed. (Exhibit 1).
4. On [REDACTED], Respondent submitted a redetermination form for the Medical Assistance Program. (Exhibit 2).
5. On August 1, 2012, a DHS-38 employment verification form was submitted from the Communication Access Center which indicated that Respondent is employed temporarily and that the date of her last [REDACTED]. (Exhibit 3).
6. On May 16, 2013, a referral was made to the Office of Inspector General regarding a possible fraud related to employment at [REDACTED]. (Exhibit 4).
7. On August 13, 2014, the OIG received their wage information form from [REDACTED] Center. The form indicated that Respondent had been employed beginning [REDACTED] were provided. (Exhibit 5)
8. On August 28, 2014, the OIG denied the fraud referral. Their investigation indicated that the DHS-38 employment form submitted to DHS on [REDACTED] did not indicate that the Respondent was not employed. DHS incorrectly assumed the Respondent was not employed based on the fact that the employer indicated that the [REDACTED]. However the employer does indicate that the Respondent is employed. (Exhibit 6)
9. On August 29, 2014, based on case documents and the OIG investigation, DHS determined that earnings from [REDACTED] were not properly budgeted by DHS to determine the correct FIP and FAP benefits amounts. As a result FIP benefit over-issuances were computed for [REDACTED] to [REDACTED] in the amount of \$ [REDACTED] and FAP from [REDACTED] to [REDACTED]. (Exhibit 7 – 12)
10. On August 29, 2014, a DHS-4358 notice of over-issuance was sent to the Respondent for each program (FIP, Exhibit 13 and FAP, Exhibit 14), notifying Respondent of the proposed DHS actions.
11. On September 9, 2014, Respondent submitted a hearing request, one for the FIP program and one for FAP program.
12. The FIP program is currently active. No payments have been made on the FIP over-issuance. Therefore, the outstanding balance is \$ [REDACTED] (Exhibit 15)
13. Respondent is currently active for FAP.

CONCLUSIONS OF LAW

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his or her claim for assistance has been denied. MAC R 400.903(1). Respondents have the right to contest a Department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The Department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. BAM 600.

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.

Recoupment policies and procedures vary by program and over-issuance type. This item explains agency error processing and establishment.

BAM 700 explains over-issuance discovery, types and standards of promptness. BAM 715 explains Respondent error, and BAM 720 explains intentional program violations.

An **agency error** is caused by incorrect actions (including delayed or no action) by the Department of Human Services (DHS) staff or Department processes. 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.).

If unable to identify the type record it as an agency error.

Agency error over-issuances are not pursued if the estimated amount is less than \$250 per program.

Within **60** days of receiving the referral, the RS must:

- Determine if an over-issuance actually occurred.
- Determine the over-issuance type.

Within **90** days of determining an over-issuance occurred, the RS must:

- Obtain all evidence needed to calculate the agency error amount.
- Establish the discovery date.
- Send a DHS-4358A, B, C & D, Notice of Over-issuance and Repay Agreement, to the Respondent.
- Enter the FIP, SDA, CDC or FAP over-issuance on the Benefit Recovery System (BRS).
- Send a DHS-4701A, Over-issuance Referral Disposition, to the ongoing worker explaining the final disposition of the over-issuance.

The amount of the over-issuance is the benefit amount the group actually received minus the amount the group was eligible to receive.

If the agency error involves two or more FAP groups which should have received benefits as one group, determine the error amount by:

- Adding together all the benefits received by the groups that must be combined, and
- Subtracting the correct benefits for the one combined group.
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Bridges automatically starts the recoupment process. DHS must request the hearing on a closed case. A hearing request on a DHS-4358D for a closed case requires the RS to request a debt collection hearing, regardless of the total over-issuance amount. BAM 705.

In the instant case, Respondent did not appear for the hearing. The notice of hearing was not returned as undeliverable. The hearing was conducted in her [REDACTED]. Her hearing requests indicates that Respondent alleges that it is not her fault that support was given to her and she should not to pay the amount back.

The evidence in the record shows that Respondent did notify the Department that she was employed. The Department did not correctly budget Respondent's income. Respondent was over-issued FIP benefits in the amount of \$ [REDACTED] and over-issued FAP benefits in the amount \$ [REDACTED].

The Department is entitled to recoup or collect over-issued benefits.

DECISION AND ORDER

Accordingly, the Department is AFFIRMED. The Department is ORDERED to initiate collection procedures for a \$ [REDACTED] over-issuance of FIP benefits and recoup \$ [REDACTED] over-issuance of FAP benefits in accordance with Department policy.



Landis Y. Lain
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 10/31/14

Date Mailed: 10/31/14

NOTICE OF APPEAL: The Respondent 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 Respondent;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The Department, AHR or the Respondent 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

LYL/tb

cc:

