

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-006925
Issue No.: 3006
Case No.: [REDACTED]
Hearing Date: [REDACTED] 2015
County: WAYNE-DISTRICT 31
(GRANDMONT)

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 [REDACTED] 2015, from Detroit, Michigan. Participants on behalf of the Department included Norma Whitt, Family Independence Specialist; and Minnie Egbuonu, Recoupment Specialist. Participants on behalf of Respondent included Respondent, [REDACTED]

ISSUE

Did Respondent receive an OI of

☐ Family Independence Program (FIP)

☒ Food Assistance Program (FAP)

benefits?

☐ State Disability Assistance (SDA)

☐ Child Development and Care (CDC)

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 [REDACTED] 2013, through [REDACTED] 2013, due to
☒ Department's error ☐ Respondent's error. See Exhibit 1, pp. 5-10.
3. The Department alleges that Respondent received a [REDACTED] OI that is still due and owing to the Department. See Exhibit 1, pp. 5-10.
4. On [REDACTED] 2014, Respondent filed a hearing request, protesting the OI amount. See Exhibit 1, p. 2.
5. On [REDACTED] 2014, the Department requested a debt collection hearing.

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.

In this case, the Department alleges that Respondent received an OI for her FAP benefits based on agency error because the Department failed to budget her spouse's earned income.

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.

On [REDACTED] 2014, the Department sent Respondent a Notice of Overissuance, which notified Respondent that she received more FAP benefits than she was eligible to receive for the time period of [REDACTED], 2013, to [REDACTED] 2013. See Exhibit 1, p. 5. The Notice of Overissuance further indicated the overissuance balance was [REDACTED] based on agency error and due to the Department's failure to budget the spouse's earned income. See Exhibit 1, p. 5.

At the hearing, the Department presented evidence to show why an agency error is present based on the Department's failure to budget the spouse's income.

First, the Department presented Respondent's redetermination generated on [REDACTED] 2012. See Exhibit 1, pp. 64-67. In the redetermination, Respondent reported an additional group member (her spouse) and that her spouse had earned income. See Exhibit 1, p. 65. As a result of the group member add, Respondent's FAP group size increased from four to five effective [REDACTED] 2012. See Exhibit 1, p. 11. The Department acknowledged that Respondent properly reported her spouse's income in the redetermination.

Second, the Department presented the spouse's verification of employment. See Exhibit 1, p. 50. The Department also included the spouse's Wage Match Client Notice (client notice) dated [REDACTED] 2013, in which the employer indicated that the spouse began employment on [REDACTED] 2012. See Exhibit 1, p. 63. The Department testified that the spouse received his first employment check on [REDACTED] 2012. See Exhibit 1, p. 1.

At the hearing, Respondent argued that she did not commit any form of fraud. The Respondent also did not dispute any of the income amounts in regards to her children's social security benefits or her spouse's income.

Clients must report changes in circumstance that potentially affect eligibility or benefit amount. BAM 105 (November 2012), p. 7. Changes must be reported within 10 days of receiving the first payment reflecting the change. BAM 105, p. 7.

Income reporting requirements are limited to the following:

- Earned income:
 - Starting or stopping employment.

- Changing employers.
- Change in rate of pay.
- Change in work hours of more than five hours per week that is expected to continue for more than one month.

BAM 105, p. 7.

Based on the foregoing information and evidence, the Department did establish a FAP benefit OI to Respondent. The evidence presented that Respondent timely reported her spouse's earned income in accordance with Department policy. See BAM 105, p. 7. However, the Department can still proceed with recoupment/collection of the OI when there is an agency error present. An agency error OI is present in this case because the Department failed to act on the spouse's reported income. See BAM 705, p. 1.

The overissuance period begins the first month (or first pay period for CDC) when benefit issuance exceeds the amount allowed by policy, or 12 months before the date the overissuance was referred to the RS, whichever 12 month period is later. BAM 705, p. 5. To determine the first month of the overissuance period for changes reported timely and not acted on, the Department allows time for: the full standard of promptness (SOP) for change processing and the full negative action suspense period. BAM 705, p. 5.

Applying the agency error overissuance period standard and in consideration that the spouse received his first check on [REDACTED] 2012, the Department determined that the OI period began on [REDACTED], 2013. See Exhibit 1, p. 1. It is found that the Department applied the appropriate OI period begin date. See BAM 705, p. 5.

Additionally, the Department presented OI budgets for the period of [REDACTED] 2013 to [REDACTED] 2013. See Exhibit 1, pp. 16-49. Monthly budgets were provided for the FAP programs using the employer's verification. See Exhibit 1, pp. 50-51. A review of the OI budgets found them to be fair and correct. The Department established that from [REDACTED] 2013 to [REDACTED] 2013 that Respondent was issued [REDACTED] in FAP benefits. See Exhibit 1, pp. 11-12. After budgeting the Respondent's income, the corrected total amount of FAP benefits issuance was [REDACTED]. See Exhibit 1, p. 12. The overissuance was established to be [REDACTED] in FAP benefits. See Exhibit 1, p. 12. Thus, the Department is entitled to recoup [REDACTED] of FAP benefits. See BAM 705, p. 7.

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 FAP benefit OI to Respondent totaling [REDACTED]

Accordingly, the Department is AFFIRMED.

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


Eric Feldman
Administrative Law Judge
for Nick Lyon, Interim Director
Department of Human Services

Date Signed: [REDACTED]/2015

Date Mailed: [REDACTED]/2015

EJF / cl

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, 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

cc:



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