

**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.: 14-011790
Issue No.: 3006; 6006
Case No.: ██████████
Hearing Date: March 23, 2015
County: MUSKEGON-61

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 March 23, 2015, 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 2014), pp. 1-17.

ISSUE

Did Respondent receive an OI of Food Assistance Program (FAP) and Child Development and Care (CDC) program 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 and CDC benefits from the Department.
2. On August 26, 2014, the Department sent Respondent a Notice of Overissuance (OI notice) informing her of a FAP overissuance (OI) for the period of August 1, 2011 to October 31, 2011, due to client error. See Exhibit 1, pp. 78-82. The OI notice also indicated that the OI balance was ██████ due to Respondent's failure to report earned income within ten days. See Exhibit 1, p. 78.

3. On August 26, 2014, the Department sent Respondent an OI notice informing her of a FAP OI for the period of October 1, 2013 to October 31, 2013, due to client error. See Exhibit 1, pp. 83-87. The OI notice also indicated that the OI balance was [REDACTED] due to Respondent's failure to report earned income within ten days. See Exhibit 1, p. 83.
4. On August 26, 2014, the Department sent Respondent an OI notice informing her of a CDC OI for the period of August 11, 2013 to October 5, 2013, due to client error. See Exhibit 1, pp. 88-92. The OI notice also indicated that the OI balance was \$ [REDACTED] due to Respondent's failure to report earned income timely and that she had excess income for CDC benefits. See Exhibit 1, p. 83.
5. On September 10, 2014, Respondent filed a hearing request, protesting the Department's action. See Exhibit 1, pp. 93-96.
6. On September 10, 2014, DHS 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.

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, 42 USC 601-619, 670-679c, and 1397-1397m-5; the Child Care and Development Block Grant of 1990, PL 101-508, 42 USC 9858 to 9858q; and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193. The program is implemented by 45 CFR 98.1-99.33. The Department administers the program pursuant to MCL 400.10 and provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001-.5020.

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 715 (July 2014), p. 6.

A client/CDC provider error OI occurs when the client received more benefits than they were entitled to because the client/CDC provider gave incorrect or incomplete information to the department. BAM 715, p. 1.

Clients must report changes in circumstance that potentially affect eligibility or benefit amount. BAM 105 (June 2011 and July 2013), pp. 7-8. Changes must be reported within 10 days of receiving the first payment reflecting the change. BAM 105, pp. 7-8.

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, pp. 7-8.

In this case, the Department alleges that Respondent committed a client error of her benefits because she failed to report and/or timely report her and an additional group member's employment and wages to the Department, which caused an overissuance of FAP benefits and excess income for CDC benefits. Specifically, the Department alleges that Respondent failed to report and/or timely report two of her employments (different employers), and her additional group member's employment.

First, the Department presented Respondent's application dated April 27, 2011, to show that she acknowledged her responsibility to report changes as required. See Exhibit 1, pp. 2-21.

Second, the Department presented a documentation record in which Respondent reported income on September 22, 2011. See Exhibit 1, p. 22. It appears that Respondent reported her and her additional group member's income. See Exhibit 1, p. 22.

Third, on September 23, 2011, the Department also received Respondent's verification of her first employment wages for the time period of July 1, 2011 to September 23, 2011, and the additional group member's wages for August 7 and 9, 2011. See Exhibit 1, pp. 27-36. The Department also presented the additional group member's employment verifications, which showed wages received for June 21, 2011 to January 18, 2012. See Exhibit 1, pp. 23-24.

Fourth, the Department presented Respondent's online application dated May 21, 2013, in which she reported her income (employer not at issue). See Exhibit 1, pp. 37-51.

Fifth, the Department presented Respondent semi-annual contact report (contact report) dated September 18, 2013, in which she reported no changes in her income. See Exhibit 1, pp. 52-53. However, the Department alleged that Respondent failed to report her second employer to the Department. The Department presented Respondent's new hire client notice (new hire) dated October 22, 2013, in which the form indicates she began employment on July 22, 2013 and it ended on November 22, 2013. See Exhibit 1, pp. 54-55. Moreover, Respondent's pay stubs were also included for the period of August 9, 2013 to October 18, 2013. See Exhibit 1 pp. 56-61.

FAP OI

Based on the foregoing information and evidence, the Department did establish a FAP benefit OI to Respondent for August 1, 2011 to September 30, 2011, and October 1, 2013 to October 31, 2013. There is a client error present in this situation because the evidence presented that Respondent failed to timely notify the Department of her and her group member's employment income. See BAM 105, pp. 7-8 and Exhibit 1, pp. 1-61.

As to the first OI period of August 2011 to September 2011, the Department presented a documentation record in which Respondent reported income on September 22, 2011. See Exhibit 1, p. 22. However, Respondent failed to timely report both incomes within 10 days of receiving the first payment reflecting the change. BAM 105, pp. 7-8.

As to the second OI period of October 2013, Respondent failed to report her second employment in the contact report dated September 18, 2013. See Exhibit 1, pp. 52-53. The evidence indicated that Respondent was employed at the time she submitted the contact report. See Exhibit 1 pp. 56-61.

Applying the overissuance period standards, it is found that the Department applied the appropriate OI begin dates of August 1, 2011 and October 1, 2013. See BAM 715, pp. 4-5 and Exhibit 1, pp. 23-36 and 54-61.

As to the first OI period, the Department presented OI budgets for August 2011 to October 2011. See Exhibit 1, pp. 67-72 and 75. The budgets included Respondent's and her group member's income that was not previously budgeted. See Exhibit 1, pp. 23-36. A review of the OI budgets found only August 2011 to September 2011 to be fair and accurate. This Administrative Law Judge (ALJ) finds that the OI budget for October 2011 was not proper because the Department failed to provide verification of Respondent's earnings for that benefit month. See Exhibit 1, p. 71. The Department is not entitled to recoup [REDACTED] for the period of October 1, 2011 to October 31, 2011. See Exhibit 1, p. 75. However, the Department is still entitled to recoup [REDACTED] of FAP benefits for the time period of August 1, 2011 to September 30, 2011. See BAM 715, pp. 7-8.

As to the second OI period of October 2013, the Department presented an OI budget for October 2013. See Exhibit 1, pp. 73-75. The budget included Respondent's income that was not previously budgeted. See Exhibit 1, pp. 54-61. A review of the OI budget for October 2013 found it to be fair and accurate. As such, the Department is still entitled to recoup [REDACTED] of FAP benefits for the time period of October 1, 2013 to October 31, 2013. See BAM 715, pp. 7-8.

CDC OI

In this case, the Department indicated that the CDC OI period was August 11, 2013 to October 5, 2013. Moreover, the Department testified that the OI amount was [REDACTED] because Respondent was ineligible for the CDC benefits due to excess income (regarding the second employment).

For income eligible CDC determinations, the income of all program group members must be considered. BEM 525 (July 2013), p. 1. The Department uses the gross (before deductions) countable, monthly income to determine the amount the Department will pay (Department pay per-cent) towards the group's child care costs. BEM 525, p. 1. CDC program groups in the income eligible group must have gross income that falls within the income scale outlined in RFT 270 to be eligible for subsidy benefits. RFT 270 (October 2011), p. 1. The Department will not contribute to child care when the gross monthly income for a group size of 1 or 2 is over \$[REDACTED]. RFT 270, p. 1.

Based on the above FAP analysis, there is also a CDC client error present in this situation because the evidence presented that Respondent failed to timely notify the Department of her employment income. As such, this caused an OI of CDC benefits due to excess income.

Applying the overissuance period standard, it is found that the Department applied the appropriate OI begin date of August 11, 2013. See BAM 715, pp. 4-5 and Exhibit 1, pp. 23-36 and 54-61. A review of Respondent's income for the second employment found that her gross countable income exceeded the CDC income limits. Claimant's gross income for the period of August 2013 to October 2013 for a group size of 1-2 is over the [REDACTED] income limit. See RFT 270, p. 1 and Exhibit 1, pp. 56-61. As such, the Department is entitled to recoup [REDACTED] for the period of August 11, 2013 to October 5, 2013.

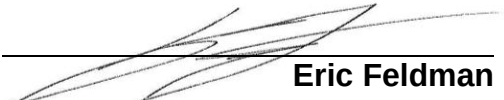
It should be noted that Respondent's CDC benefit summary inquiry included a recoupment amount. See Exhibit 1, p. 65. It appears that mostly likely it is Administrative Recoupment (AR). In regards to the OI calculation of CDC benefits, the amount of benefits received in an overissuance calculation includes administrative recoupment deduction. See BAM 715, p. 7. Thus, the Department properly included the AR amount included in the OI calculation. See BAM 715, p. 7.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that the Department (i) did establish a FAP and CDC benefit OI to Respondent totaling [REDACTED] (FAP period of August 2011 to September 2011 and October 2013, and CDC period of August 2013 to October 2013); and (ii) did not establish a FAP OI for [REDACTED] for the period of October 2011.

Accordingly, the Department is AFFIRMED IN PART with respect to FAP period of August 2011 to September 2011 and October 2013, and CDC period of August 2013 to October 2013, and REVERSED IN PART with respect to FAP period of October 2011.

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: **3/24/2015**

Date Mailed: **3/24/2015**

EJF/tm

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: