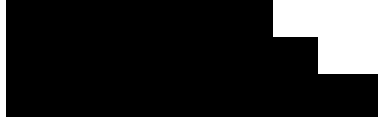


**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES**

IN THE MATTER OF:



Reg. No.: 14-017805
Issue No.: FOOD ASSISTANCE PROGRAM
Case No.:
Hearing Date: January 14, 2015
County: ISABELLA

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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 telephone hearing was held on January 14, 2015, from Lansing, 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 (7-1-2014), pp. 16-17.

Participants on behalf of Respondent included _____.

ISSUE

Did Respondent receive an OI of

Family Independence Program (FIP)

State Disability Assistance (SDA)

Food Assistance Program (FAP) benefits?

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 March 1, 2014, through April 30, 2014, due to
 Department's error Respondent's error.
3. The Department alleges that Respondent received a \$ [REDACTED] 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 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.

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.

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 it is entitled to receive, DHS must attempt to recoup the overissuance (OI). An overissuance (OI) is the amount of benefits issued to the client group or CDC provider in excess of what it was eligible to receive. For FAP benefits, an OI is also the amount of benefits trafficked (traded or sold). BAM 700, p 1 (5-1-2014).

An agency error OI is caused by incorrect action (including delayed or no action) by DHS staff or DIT staff or department processes. If unable to identify the type of OI, the Department records it as an agency error. 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 incomplete information to the department. BAM 700, p 6.

A client must report changes in circumstance that potentially affect eligibility or benefit amount. Changes must be reported within 10 days of receiving the first payment reflecting the change. This includes changes with employment and earnings. BAM 105, p.9 (1-1-2014).

Client and Agency error OIs are not pursued if the estimated OI amount is less than \$250 per program. BAM 700, p 9.

Here, the Department contends that Respondent received an OI of FAP benefits due to Respondent's error. The Department asserts that Respondent failed to timely report income changes. Respondent acknowledged her rights and responsibilities by her electronic signature on the October 10, 2013, assistance application. The November 8, 2013, Notice of Case Action approving Respondent's FAP case addressed simplified reporting. Respondent was only required to report a change when the household income exceeded a limit of \$1,245. Employment verification showed Respondent's income exceeded that limit as of January 2014. Monthly earned income in excess of the \$1,245 limit continued through April 2014. There was no evidence that Respondent timely reported the increased earnings. Rather, Respondent's hearing request appears to reference a semiannual contact report and indicates she believed that if she did not timely return the requested proofs her case would close or be reduced. While the Department periodically issues semi-annual contact reports, redetermination, or other case review forms requesting proofs, Respondent still had the obligation to timely report when her household income increased beyond the simplified reporting limit of \$ [REDACTED] per month. Respondent's failure to timely report the changes with her income resulted in a FAP benefit OI of \$ [REDACTED] for the months of March and April 2014.

This Administrative Law Judge has carefully considered and weighed the testimony and other evidence in the record. Pursuant to BAM 105, Respondent was responsible for reporting any changes in circumstance that potentially affect eligibility or benefit amount within 10 days of receiving the first payment reflecting the change. This includes changes with income because income is included in the FAP budget to determine the monthly allotment the FAP group is eligible to receive. The evidence establishes that Respondent did not timely report when her monthly earnings exceeded the simplified reporting limit of \$ [REDACTED]. When Respondent's income was corrected in the FAP budgets, the difference between the benefit amounts Respondent received and the benefit amounts Respondent was entitled to receive totals \$ [REDACTED]. Pursuant to BAM 700,

recoupment is pursued for OIs greater than \$ [REDACTED]. Accordingly, the Respondent's failure to timely report income changes resulted in the FAP benefit OI of \$ [REDACTED].

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that the Department did did not establish a FIP FAP SDA CDC benefit OI to Respondent totaling \$ [REDACTED].

DECISION AND ORDER

Accordingly, the Department is

- AFFIRMED.
- REVERSED.
- AFFIRMED IN PART with respect to _____ and REVERSED IN PART with respect to _____.
- The Department is ORDERED to initiate collection procedures for a \$346 OI in accordance with Department policy.

Colleen Lack

Colleen Lack
Administrative Law Judge
for Nick Lyon, Interim Director
Department of Human Services

Date Signed: **1/21/2015**

Date Mailed: **1/21/2015**

CL/hj

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:

A large black rectangular redaction box covers the names and contact information of the recipients listed in the CC field.