

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-018236
Issue No.: FOOD ASSISTANCE PROGRAM
Case No.: [REDACTED]
Hearing Date: January 21, 2015
County: KALAMAZOO

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 21, 2015, from Lansing, Michigan. Participants on behalf of the Department included [REDACTED], Recoupment Specialist, and [REDACTED], Hearing Coordinator.

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. .

Participants on behalf of Respondent included Brenda Davis.

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 September 1, 2011, through March 31, 2012, 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 income. 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 an income change when she began receiving unemployment benefits in July 2011. Respondent had acknowledged her rights and responsibilities by her electronic signature on the October 15, 2009, assistance application. Respondent was required to timely report any changes with the household income.

Respondent acknowledged that she was approved for unemployment benefits within about two weeks of her June 2011 application. The Department verified that the first unemployment check was issued July 19, 2011.

Respondent testified that she timely notified the Department of this income change along with the other changes in household composition and income that occurred at the same time. Specifically, Respondent testified she also notified the Department that the children returned to her home as well as their Social Security income along with the unemployment approval on a change report. Respondent testified that all of these changes occurred at the same time. The Recoupment Specialist testified that no such documentation of the reported changes was found when Respondent's FAP case record was reviewed.

Respondent's testimony that she reported changes to the Department is found at least partially credible. It appears that at least the addition of the children and their Social Security income was included in the original FAP budgets for the household for the time period at issue. However, the evidence establishes that a FAP over issuance occurred regardless of whether the error of not including the unemployment income was the Respondent's (failing to timely report the start of the unemployment income) or the Department's (failing to budget a reported start of unemployment income with all the other changes occurring reported that time). As noted above, both Client and Agency

error OIs are pursued if the estimated OI amount is \$250 or more per program. Accordingly, there is no need for a determination as to whose error resulted in the OI.

When all of the verified income for the FAP group is budgeted for the period September 1, 2011, through March 31, 2012, Respondent received a \$ [REDACTED] OI in FAP benefits.


This Administrative Law Judge has carefully considered and weighed the testimony and other evidence in the record. 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 \$250. Accordingly, the Department properly pursued Respondent's FAP benefit OI of \$ [REDACTED] that resulted from the incorrect income budgeting.

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 \$2,406.

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 \$2,406 OI in accordance with Department policy.



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

Date Signed: **1/22/2015**

Date Mailed: **1/22/2015**

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:

