

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

IN THE MATTER OF:



Reg. No.: 2014-19917
Issue No(s): 3006
Case No.:
Hearing Date: April 23, 2014
County: Wayne (35)

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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 April 23, 2014, 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 2013), pp. 13-17.

Participants on behalf of Respondent included Respondent, .

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 September 1, 2011, through November 30, 2011, due to Department's error Respondent's error.
3. The Department alleges that Respondent received a \$403 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 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.

Additionally, when a client group receives more benefits than they are entitled to receive, the Department must attempt to recoup the OI. BAM 700 (July 2013), p. 1. An agency error OI is caused by incorrect actions by the Department, including delayed or no action, which result in the client receiving more benefits than they were entitled to receive. 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 inaccurate information to the Department. BAM 700, p.6.

The amount of the OI is the benefit amount the client actually received minus the amount the client was eligible to receive. BAM 715 (July 2013), pp. 1, 6; BAM 705 (July 2013), p 6.

In this case, the Department alleges that Respondent received a \$403 client error caused OI in FAP benefits because she failed to timely report her employment and earnings, causing an OI of FAP benefits from September 1, 2011, to November 30, 2011. Clients must report changes in circumstances, such as changes in income or employment that potentially affect eligibility or benefit amount within 10 days of receiving the first payment reflecting the change. BAM 105 (January 2011), p.7.

At the hearing, the Department established that the State of Michigan issued \$419 in FAP benefits to Respondent from September 1, 2011, to November 30, 2011. (Exhibit 1, p.6). The Department alleges that Respondent was eligible for \$16 in FAP benefits during this period.

In support of its OI case for the period of September 2011 to November 2011, the Department presented verifications of employment which establish that Respondent was employed and earning income during the period at issue. (Exhibit 1, pp. 37-42).

The Department provided FAP Net Income Results budgets for the period at issue showing that the earned income was not previously included in the calculation of Respondent's FAP benefits. A review of the FAP Net Income Results budgets also reveals that unearned income was previously being included in her FAP budget and used to calculate the amount of Respondent's FAP benefits. The Department also presented FAP Worksheets for the periods at issue, which were reviewed at the hearing. The Department stated that it used these FAP worksheets to calculate the OI. (Exhibit 1, pp. 17-23).


It was unclear from the evidence presented and the Department remained unable to explain exactly how the \$403 OI was calculated in this case, as there were several inconsistencies with the documents presented for review, specifically with respect to the Department's failure to include the unearned income on the FAP worksheets that was previously being budgeted, as well as the exact income amounts were relied on to determine that Respondent was overissued FAP benefits for each of the months in the OI period. Therefore, the Department has failed to establish that Respondent was overissued FAP benefits in the amount of \$403.

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that the Department did not establish a FAP benefit OI to Respondent totaling \$403.

DECISION AND ORDER

Accordingly, the Department is REVERSED.

The Department is ORDERED to delete the OI and cease any recoupment action.



Zainab Baydoun
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: May 15, 2014

Date Mailed: May 15, 2014

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

The Department, AHR or the claimant 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

ZB/tlf

cc:

