

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-27750
Issue No(s): 3007
Case No.: [REDACTED]
Hearing Date: March 19, 2014
County: Oakland County DHS #3

ADMINISTRATIVE LAW JUDGE: Colleen Lack

HEARING DECISION

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 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 March 19, 2014, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED], the Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED] [REDACTED] Recoupment Specialist, and Heather Hembree, Eligibility Specialist.

ISSUE

Did Claimant receive an overissuance of program benefits that the Department is entitled to recoup?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Claimant received benefits for:
 Family Independence Program (FIP). State Disability Assistance (SDA).
 Food Assistance Program (FAP). Child Development and Care (CDC).
2. The Department determined that Claimant received a
 FIP FAP SDA CDC overissuance in the amount of \$ [REDACTED] during the period of October 1, 2011, through March 31, 2012.
3. The overissuance was due to Department error. client error.
4. On January 30, 2014, the Department sent notice of the overissuance and a repayment agreement to Claimant/Claimant's Authorized Representative (AR).

5. On February 10, 2014, Claimant/Claimant's Authorized Hearing Representative (AHR) filed a hearing request, protesting the Department's recoupment action.

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.

When a client group receives more benefits than it is entitled to receive, DHS must attempt to recoup the overissuance (OI). BAM 700, p 1 (7-1-2013). 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 (7-1-2013).

An agency error OI is caused by incorrect action (including delayed or no action) by DHS staff or DIT staff or department processes. BAM 700, p 4 (7-1-2013). If unable to identify the type of OI, the Department records it as an agency error. BAM 700, p 4 (7-1-2013).

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 (7-1-2013).

A Claimant 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. BAM 105, p.7 (6/1/2011).

Client and Agency error OIs are not pursued if the estimated OI amount is less than \$250 per program. BAM 700, p 9 (7-1-2013).

Here, the Department contends that Claimant received an OI of FAP benefits due to Claimant's error. The Department asserts that Claimant failed to report income changes. Claimant only reported unemployment compensation benefits on an August 2011 Redetermination form and failed to report starting a job with Starbucks on July 25, 2011. Claimant's first paycheck from Starbucks was August 12, 2011. Claimant's unemployment compensation benefits ended August 15, 2011 and her employment with Starbucks ended March 7, 2012. Additionally, the Department had sent Claimant a Change Report on August 30, 2011. Claimant's failure to report the changes with her income resulted in a FAP benefit OI of \$582 for the months of October 2011 through March 2012.

Claimant testified she does not really recall these dates and is not sure if she did not turn in information on time or what happened. Claimant testified she had some trouble with a past Department worker and submitting paperwork. However, Claimant stated she may not have reported starting the job at Starbucks on the August 2011 Redetermination form because she had just started the job and was not sure she would be able to keep it yet. Claimant also explained there was a lot going on at that time, including moving and her mother passing on.

This Administrative Law Judge has carefully considered and weighed the testimony and other evidence in the record. Pursuant to BAM 105, Claimant 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, since income is included in the FAP budget to determine the monthly allotment the FAP group is eligible to receive. The evidence establishes that Claimant did not report the Starbucks job on the August 2011 Redetermination form. There is no evidence that a Change Report was later submitted reporting income changes to the Department. When Claimant's income was corrected in the FAP budgets, the difference between the benefit amounts Claimant received and the benefit amounts Claimant was entitled to receive totals \$ [REDACTED]. Pursuant to BAM 700, recoupment is pursued for OIs greater than \$250. Accordingly, the Claimant's failure to timely report income changes resulted in the FAP benefit OI of \$ [REDACTED].

Based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, the Administrative Law Judge concludes that Claimant

- did receive an overissuance for FIP FAP SDA CDC benefits in the amount of \$ [REDACTED] that the Department is entitled to recoup.
- did not receive the overissuance for which the Department presently seeks recoupment.

DECISION AND ORDER

Accordingly, the Department's action seeking recoupment is:

- AFFIRMED.**
- THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Initiate collection procedures for the \$ [REDACTED] OI in accordance with Department policy

Colleen Lack

Colleen Lack
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: March 25, 2014

Date Mailed: March 25, 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

CL/hj

cc:

