

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

IN THE MATTER OF:

██████████
██████████
████████████████████

Reg. No.: 2014-35124
Issue No(s): 3006
Case No.: ██████████
Hearing Date: September 8, 2014
County: Grand Traverse (00)

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 telephone hearing was held on September 8, 2014, from Detroit, Michigan. Participants on behalf of the Department or DHS included ██████████, Recoupment Specialist.

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)

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 May 1, 2013 to April 30, 2014 due to
 Department's error Respondent's error.
3. The Department alleges that Respondent received a \$2,148 OI that is still due and owing to the Department.
4. On April 30, 2014, Respondent filed a hearing request, protesting the OI amount.

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.

In this case, the Department alleges that Respondent received an OI of his FAP benefits based on agency error because the Department budgeted a medical expense that Respondent no longer had.

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 705 (July 2014), p. 6.

An agency error is caused by incorrect actions (including delayed or no action) by the Department of Human Services (DHS) staff or department processes. BAM 705, p. 1. Some examples are:

- Available information was not used or was used incorrectly.
- Policy was misapplied.
- Action by local or central office staff was delayed.
- Computer errors occurred.
- Information was not shared between department divisions such as services staff.
- Data exchange reports were not acted upon timely (Wage Match, New Hires, BENDEX, etc.).

The Department indicates that the time period it is considering the OI period is May 1, 2013 to April 30, 2014. At the hearing, the Department presented evidence to show why an agency error is present based on Respondent's medical expenses being budgeted in which he no longer had.

First, the Department presented Respondent's Notice of Overissuance dated April 24, 2014, which stated he received more benefits than he was eligible to receive from May 1, 2013 to April 30, 2014. See Exhibit 1, p. 5. Moreover, the Notice of Overissuance stated that the OI balance is \$2,148 based on agency error because the Department budgeted a medical expense that he no longer had. See Exhibit 1, p. 5.

Second, the Department presented Respondent's FAP application dated February 27, 2013. See Exhibit 1, pp. 37-48. In the application, Respondent indicated that he did not have any medical bills. See Exhibit 1, p. 45.

Third, the Department presented Respondent's Medical Expenses – Summary, which showed the specific medical expenses that Respondent no longer had. See Exhibit 1, p. 36. There were five medical expenses Respondent incurred, which ranged from October 1, 2009 to January 1, 2011. See Exhibit 1, p. 36. Respondent's five medical expenses were all based on personal care services provided in the home, Adult Foster Care (AFC), or HA. See Exhibit 1, p. 36. The Department argued these were one time expenses that the Department should have not kept budgeting. The Department calculated a total medical expense of \$1,018. See Exhibit 1, p. 36. Then, upon applying the \$35 disregard for medical expenses, this resulted in a medical deduction of \$983.

At the hearing, Respondent testified that these medical expenses consisted of his personal care services provided in the AFC. Respondent testified that during the alleged OI period he did not have approximately \$983 in medical expenses. Respondent testified that he only had approximately \$35 in medical expenses, which consisted of co-pays. Effective May 1, 2014, Respondent testified that he then began having a \$822 deductible. However, both parties appeared to agree that Respondent did not have a deductible during the alleged OI period. Respondent testified as to two medical procedures done, but did not provide any proof of medical bills. Finally, Respondent presented several Notices of Case Action from different DHS locations that indicated he had a medical expense deduction. See Exhibit A, pp. 1-11.

For groups with one or more senior/disabled/disabled veteran (SDV) member, the Department allows medical expenses for the SDV member(s) that exceed \$35. BEM 554 (October 2012), p. 1. At application and redetermination, the Department considers only the medical expenses of SDV persons in the eligible group or SDV persons disqualified for certain reasons. BEM 554, p. 6. The Department estimates an SDV person's medical expenses for the benefit period. BEM 554, p. 6.

Groups that do not have a 24-month benefit period may choose to budget a one-time-only medical expense for one month or average it over the balance of the benefit period.

BEM 554, p. 7. The Department will allow the expense in the first benefit month the change can affect. BEM 554, p. 7 (see exception p. 7).

A list of allowable expenses are located in BEM 554. BEM 554, pp. 7-9. The Department estimates an SDV person's medical expenses for the benefit period. BEM 554, p. 9. The expense does not have to be paid to be allowed. BEM 554, p. 9. The Department allows medical expenses when verification of the portion paid, or to be paid by insurance, Medicare, Medicaid, etc. is provided. BEM 554, p. 9. The Department allows only the non-reimbursable portion of a medical expense. BEM 554, p. 9. The medical bill cannot be overdue. BEM 554, p. 9. The medical bill is not overdue if one of the following conditions exists:

- Currently incurred (for example, in the same month, ongoing, etc.).
- Currently billed (client is receiving the bill for the first time for a medical expense provided earlier and the bill is not overdue).
- Client made a payment arrangement before the medical bill became overdue.

BEM 554, p. 9.

Finally, the Department verifies allowable medical expenses including the amount of reimbursement, at initial application and redetermination. BEM 554, p. 9. The Department verifies reported changes in the source or amount of medical expenses if the change would result in an increase in benefits. BEM 554, p. 9.

Based on the foregoing information and evidence, the Department established a FAP benefit OI to Respondent. The evidence presented that the Department kept budgeting a medical expense that Respondent no longer had. Respondent even indicated that he notated no medical bills in the application. See Exhibit 1, p. 45. Even though Respondent notified the Department that he did not have medical bills, the Department can still proceed with recoupment based on agency error. As such, the evidence presented that Respondent received an OI of his FAP benefits based on agency error because the Department budgeted a medical expense that Respondent no longer had.

Applying the agency error overissuance period standard, it is found that the Department applied the appropriate OI period begin date of May 1, 2013. See BAM 705, p. 5.

In this case, the Department presented OI budgets for May 2013 to April 2014. See Exhibit 1, pp. 7-31. The budgets removed Respondent's one-time medical deduction that was previously budgeted. See Exhibit 1, pp. 7-31. A review of the OI budgets for May 2013 to April 2014 found them to be fair and correct. See BAM 715, p. 7. Thus, the Department established an OI amount of \$2,148 for the FAP benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that the Department did establish a FAP benefit OI to Respondent totaling \$2,148.

Accordingly, the Department is AFFIRMED.

The Department is ORDERED to initiate collection procedures for a \$2,148 OI in accordance with Department policy.



Eric Feldman
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: September 12, 2014

Date Mailed: September 12, 2014

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides or has its principal place of business in the State, 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

EJF/cl

cc: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
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