

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

IN THE MATTER OF:

██████████
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Reg. No.: 14-006623
Issue No.: 3006
Case No.: ██████████
Hearing Date: January 7, 2015
County: BRANCH

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 three-way telephone hearing was held on January 7, 2015, from Detroit, Michigan. Participants on behalf of the Department included ██████████, Recoupment Specialist. Participants on behalf of Respondent included Respondent, ██████████; and Respondent's son/interpreter, ██████████

ISSUE

Did Respondent receive an OI of

- Family Independence Program (FIP)
 Food Assistance Program (FAP)
benefits?

- State Disability Assistance (SDA)
 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 FAP benefits from the Department. See Exhibit 1, p. 11.
2. The Department alleges Respondent received a
 FIP FAP SDA CDC
OI during the period August 1, 2013, through October 31, 2013, due to
 Department's error Respondent's error. See Exhibit 1, p. 4.

3. The Department alleges that Respondent received a \$1,294 OI that is still due and owing to the Department. See Exhibit 1, p. 4.
4. On July 7, 2014, Respondent filed a hearing request, protesting the OI amount. See Exhibit 1, p. 3.
5. On July 7, 2014, DHS requested a debt collection hearing.
6. On October 15, 2014, the Michigan Administrative Hearing System (MAHS) sent Respondent a Notice of Debt Collection Hearing, notifying both parties of his hearing scheduled on November 25, 2014.
7. On November 19, 2014, the Department requested an adjournment of the hearing.
8. On November 20, 2014, the Administrative Law Judge (ALJ) sent both parties an Adjournment Order.
9. On November 26, 2014, MAHS sent Respondent a Notice of Debt Collection Hearing, notifying both parties of his hearing rescheduled on January 7, 2015.

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.

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 715 (May 2014), p. 6.

A client/CDC provider error OI occurs when the client received more benefits than they were entitled to because the client/CDC provider gave incorrect or incomplete information to the department. BAM 715, p. 1.

Clients must report changes in circumstance that potentially affect eligibility or benefit amount. BAM 105 (July 2013 and October 2013), p. 8. Changes must be reported within 10 days of receiving the first payment reflecting the change. BAM 105, p. 8.

Income reporting requirements are limited to the following:

- Earned income:
 - Starting or stopping employment.
 - Changing employers.
 - Change in rate of pay.
 - Change in work hours of more than five hours per week that is expected to continue for more than one month.

BAM 105, p. 8.

On June 30, 2014, the Department sent Respondent a Notice of Overissuance, which notified Respondent that he received more FAP benefits than he was eligible to receive for the time period of August 1, 2013 to October 31, 2013. See Exhibit 1, p. 4. The Notice of Overissuance further indicated the overissuance balance was \$1,294 based on client error because Respondent failed to timely report earnings from two of his employers. See Exhibit 1, p. 5. As such, the Department presented evidence to show why a client error is present in this case.

First, the Department presented Respondent's application dated December 6, 2012, to show that Respondent acknowledged his obligation to report all required changes of income to DHS within 10 days. See Exhibit 1, pp. 50-73 and see also Exhibit 1, pp. 39-49 (Notice of Case Action dated December 6, 2012).

Second, the Department argued that Respondent failed to timely report earnings from two of his employers. In regards to Respondent's first employer, the Department presented his New Hire Client Notice (new hire) received on September 24, 2013. See Exhibit 1, pp. 30-31. The new hire requested employment verification regarding Respondent's first employer. See Exhibit 1, p. 1. Instead, Respondent reported his employment information concerning his second employer. See Exhibit 1, p. 31. Respondent did not provide any information regarding the first employer as requested by the Department. See Exhibit 1, pp. 30-31. A review of the remaining evidence packet found that Respondent did not report his first employer to the Department. In regards to the second employer, Respondent reported the employment information in the new hire dated September 24, 2013. See Exhibit 1, pp. 30-31.

Third, the Department presented verification of both Respondent's employers. As to the first employer, the employment verification indicated that Respondent received wages from June 14, 2013, to October 4, 2013. See Exhibit 1, pp. 23-29. As to the second employer, Respondent actually reported in the new hire that he began employment on

September 9, 2013 and he received his first paycheck on September 19, 2013. See Exhibit 1, p. 31. The Department's employment verification of Respondent's second employer indicated he received earnings from September 26, 2013, to November 21, 2013. See Exhibit 1, p. 22.

In summary, the Department argued that Respondent failed to report earnings from his first employer (income received from on or around June 14, 2013, to October 4, 2013). See Exhibit 1, pp. 29-29. Also, the Department argued that Respondent failed to timely report earnings from his second employer (income received from on or around September 26, 2013, to November 21, 2013). See Exhibit 1, p. 22.

At the hearing, Respondent acknowledged that he was employed with both companies. Respondent testified that the first employer was a temp agency in which it assisted him in finding employment. Respondent testified that the temp agency found employment for him with the second employer, which began on or around September 2013. Respondent testified that he was never employed or worked with the second employer before September 2013. Finally, Respondent testified that he did report his first employer (temp agency) to the Department on or around June 2013.

Based on the foregoing information and evidence, the Department did establish a FAP benefit OI to Respondent for August 2013 and did not establish a FAP benefit OI for September 2013 to October 2013.

First, Respondent alleges that he timely reported his first employer; however, the evidence indicated that Respondent failed to report his first employment earnings. See BAM 105, p. 8. The Department requested verification of his first employer in the new hire; however, Respondent did not provide such information. See Exhibit 1, pp. 30-31. Instead, Respondent reported his second employer information. Therefore, a client error is present in this situation because Respondent failed to notify the Department of his first employment. See BAM 105, p. 8.

Applying the overissuance period standards and in consideration of the Respondent receiving the unreported income on June 14, 2013, the Department determined that the OI period began on August 1, 2013. See Exhibit 1, pp. 4 and 25. It is found that the Department applied the appropriate OI begin date. See BAM 715, pp. 4-5.

In this case, the Department presented OI budgets for August 2013 to October 2013. See Exhibit 1, pp. 12-18. The budgets included Respondent's income that was not previously reported from both employers' verifications. See Exhibit 1, pp. 21-29. A review of the OI budgets found only August 2013 to be fair and accurate. This ALJ finds that the OI budgets were not properly calculated for September 2013 to October 2013; however, this will be addressed below. Nonetheless, the Department is entitled to recoup \$582 of FAP benefits for the time period of August 1, 2013, to August 31, 2013. See BAM 715, pp. 7-8.

Second, Respondent's employment verification indicated that he began receiving wages on September 26, 2013. See Exhibit 1, p. 22. Respondent reported his second employment to the Department on September 24, 2013. See Exhibit 1, pp. 30-31. As such, Respondent timely reported his second employment to the Department in accordance with Department policy. BAM 105, p. 8. Because Respondent properly reported his second employment, there is no client error present. However, the Department can still proceed with recoupment/collection of the OI when there is an agency error present. 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 (May 2014), p. 1. An agency error OI is present in this case because the Department failed to act on the reported earnings concerning the second employer. See BAM 705, p. 1.


As to the OI period of September 1, 2013, to October 31, 2013, it is found that the Department failed to properly calculate this period. The Department only factored in Respondent's second employment earnings for the OI period of September 2013 to October 2013. See Exhibit 1, pp. 13-16. For client error overissuances due, at least in part, to failure to report earnings, the Department does not allow the 20 percent earned income deduction on the unreported earnings. BAM 715, p. 8. A review of the September 2013 to October 2013 budgets found that the Department did not allow the 20 percent earned income deduction. See Exhibit 1, pp. 13-16. As stated above, there is an agency error present in this case. Therefore, Respondent should have been allowed the 20 percent earned income deduction concerning his reported earnings for his second employer. Because the Department failed to allow the 20 percent earned income deduction for Respondent's second employment earnings, it improperly calculated the OI budgets for September 2013 to October 2013. There is no OI present for the period of September 1, 2013, to October 31, 2013.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that the Department (i) did establish a FAP benefit OI to Respondent totaling \$582; and (ii) did not establish a FAP benefit OI to Respondent totaling \$712.

Accordingly, the Department is AFFIRMED IN PART with respect to August 2013 (OI amount of \$582) and REVERSED IN PART with respect to September 2013 to October 2013 (total OI amount of \$712).

- The Department is ORDERED to initiate collection procedures for a \$582 OI in accordance with Department policy.



Eric Feldman
Administrative Law Judge
for Nick Lyon, Interim Director
Department of Human Services

Date Signed: **1/13/2015**

Date Mailed: **1/13/2015**

EJF / cl

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

