

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

IN THE MATTER OF:



Reg. Nos.: 15-003177
15-003181
Issue No.: 1006, 3006
Case No.: [REDACTED]
Hearing Date: May 7, 2015
County: Genesee (6) Clio Rd

ADMINISTRATIVE LAW JUDGE: Darryl Johnson

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; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on May 7, 2015, from Lansing, Michigan. Participants on behalf of Claimant included Claimant and her mother, [REDACTED]. Participants on behalf of the Department of Health and Human Services (Department) included Recoupment Specialist [REDACTED].

This was originally scheduled as two hearings. At the commencement of this hearing the parties agreed that the instant case (15-003177) could be combined with the other case (15-003181) and a single decision issued encompassing both Register Numbers.

ISSUE

Did the Department properly impose recoupment of Family Independence Program (FIP) and Food Assistance Program (FAP) 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. On January 3, 2011, Claimant applied for FIP.
2. From June 1, 2012, through May 31, 2013, (the overissuance, or "OI" period), Claimant received FIP and FAP.

3. Prior to and during the OI period, Claimant was providing the Department with information regarding the group's income, but the Department was not determining her FIP and FAP eligibility based upon the correct income.
4. On February 23, 2015, the Department received Claimant's hearing request, contesting the Department's recoupment of \$ [REDACTED] in FIP and \$ [REDACTED] in FIP during the OI period.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), Department of Health and Human Services Reference Tables Manual (RFT), and Department of Health and Human Services Emergency Relief Manual (ERM).

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 Department of Human Services) 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-.3131.

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food and Nutrition Act of 2008, 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 Department of Human Services) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011.

As stated in BAM 700 (5/1/14) p 1, "When a client group receives more benefits than it is entitled to receive, DHS must attempt to recoup the overissuance."

In Exhibit 1 Page 2, the Department presented a Redetermination completed by Claimant in which she reported income of \$ [REDACTED]. The date of the form is unknown. More details of her income are found at Exhibit 1 Pages 22-16. Exhibit 1 Page 5 is a Notice of Case Action dated May 31, 2011, in which Claimant was notified she was eligible to receive \$ [REDACTED] monthly in FIP and \$ [REDACTED] monthly in FAP. As of May 31, 2012, the FAP was increased to \$ [REDACTED] per month. See Exhibit A Page 11. Exhibit A Page 27 is a report of Claimant's husband's earnings from Family Dollar.

The Department presented evidence that, for the period of June 1, 2012, through May 31, 2013, Respondent reported her and her husband's wages, but the Department for reasons unknown did not include the income in her FAP budget. A summary of the FIP OI is at Exhibit A Page 70. Details of the monthly actual and corrected budgets are at Pages 35-69. Regarding FAP, a summary of the OI is at Exhibit 1 Page 99, and

details of each month are at Pages 71-98. The group received \$ [REDACTED] during the OI period, but should have received just \$ [REDACTED]. Consequently, she received a FAP OI of \$ [REDACTED]. This was an OI due to Agency error.

As explained in BAM 725 (7/1/14) p.6,

Administrative Recoupment

FIP, SDA, CDC and FAP

Active programs are subject to Administrative Recoupment (AR) for repayment of overissuances. Active program recipients are allowed to make monthly cash payments (instead of administrative recoupment) **only** when ordered by a court or processed by the AG office; see **Cash Payments** in this item.

Administrative recoupment cannot cross programs. For example; a FIP overissuance cannot be recouped from FAP benefits. An ADC overissuance can be recouped from FIP. A General Assistance (GA) overissuance can be recouped from SDA.

Administrative recoupment continues until program closure or all collectible overissuances are repaid. Administrative recoupment automatically resumes when a program with an overissuance balance reopens.

Administrative recoupment can be deducted from more than one active case for a single overissuance.

The recoupment is accomplished through reduction of benefits as follows (p.7)

AR Amount

FIP, SDA and CDC

FIP and SDA benefits are reduced for recoupment by a percentage of the **payment standard**. The administrative recoupment amount automatically changes when the payment standard changes.

The standard administrative recoupment percentage is always used unless a court has ordered a different percentage or a specific dollar amount.

The standard administrative recoupment percentage for FIP, SDA and CDC is:

- 5 percent for agency error.
- 5 percent for client error.
- 10 percent for intentional program violation.
- 20 percent for CDC provider intentional program violation.

Note: When necessary, the administrative recoupment amount is automatically reduced in order to leave a \$2 grant payment to the client.

FAP Only

FAP benefits are reduced for recoupment by a percentage of the **monthly FAP entitlement**. (The entitlement amount is the amount of FAP a group would receive if any intentional program violation-disqualified members were included in the eligible group.)

Administrative recoupment occurs only on current month issuances and automatically changes when the monthly issuance amount changes.

Use the standard administrative recoupment percentage unless a court has ordered a different administrative recoupment percentage or a specific dollar amount. The minimum administrative recoupment amount is \$10, unless the final overissuance payment is less than \$10.

The standard administrative recoupment percentage for FAP is:

- 10 percent (or \$10, whichever is greater) for agency error.
- 10 percent (or \$10, whichever is greater) for client error.
- 20 percent (or \$20, whichever is greater) for intentional program violation.

If the client is inactive in a program, benefits can be collected according to the policy found at BAM 725 p.8:

**COLLECTIONS ON
INACTIVE
PROGRAMS**

FIP, SDA, CDC and FAP

Overissuance balances on inactive cases must be repaid by lump-sum or monthly cash payments **unless** collection is suspended; see **SUSPENDED COLLECTION ACTIONS** in this item.

Benefit Recovery System sends a collection notice when programs or cases close and an outstanding overissuance exists; see **AUTOMATED DELINQUENCY NOTICES** in this item.

Cash Payments

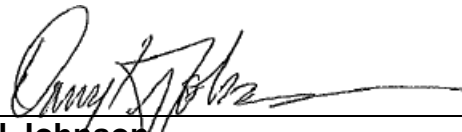
All Programs

Lump sum or monthly cash payments are accepted at any local office fiscal unit and in some cases will be routed through the AG office.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department acted in accordance with Department policy when it established the OI in the FIP and FAP programs and commenced recoupment.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.



Darryl Johnson
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **5/11/2015**

Date Mailed: **5/11/2015**

DJ/jaf

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 copy of the claim or application for appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Hearing Decision from 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 48909-8139

cc:

