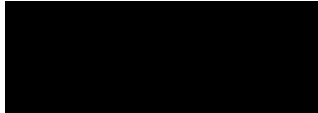


**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES**

IN THE MATTER OF:



Reg. No.: 14-014515
Issue No.: 1006
Case No.: [REDACTED]
Hearing Date: [REDACTED], 2015
County: WAYNE-DISTRICT 41
(FORT WAYNE)

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 [REDACTED], 2015, from Detroit, Michigan. Participants on behalf of the Department included Corey Reed, Hearings Liaison. Participants on behalf of Respondent included Respondent, [REDACTED]

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 FIP benefits from the Department. See Exhibit 1, p. 11.
2. On [REDACTED] 2014, the Department sent Respondent a Notice of Case Action notifying her that her FIP benefits would close effective [REDACTED] 2014, ongoing because no group member is an eligible child. See Exhibit 1, pp. 12-19.

3. On [REDACTED], 2014, the Department sent Respondent a Notice of Overissuance, which notified Respondent that she received more FIP benefits than she was eligible to receive for the time period of [REDACTED], 2014 to [REDACTED], 2014. See Exhibit 1, pp. 20-25. The Notice of Overissuance further indicated the overissuance balance was [REDACTED] based on client error and there was no explanation of reason or manual items. See Exhibit 1, p. 20.
4. On [REDACTED] 2014 and [REDACTED], 2014, Respondent filed a hearing request, protesting the OI amount. See Exhibit 1, pp. 2-9.
5. On [REDACTED] 2014, the Department requested a debt collection hearing.

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 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 Family Independence Agency) 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 to .3131.

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 (July 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 (April 2014), p. 9. Changes must be reported within 10 days of receiving the first payment reflecting the change. BAM 105, p. 9.

Income reporting requirements are limited to the following:

- Unearned income:
 - Starting or stopping a source of unearned income.
 - Change in gross monthly income of more than \$50 since the last reported change.

BAM 105, p. 9.

In this case, the Department testified that Respondent received FIP benefits for [REDACTED] minor children in total. On [REDACTED] 2014, verification indicated that Respondent received foster care payments for a daily payment of [REDACTED] for all [REDACTED] children. See Exhibit 1, p. 10. Furthermore, the verification indicated that Respondent became licensed for foster home placement on [REDACTED] 2014. See Exhibit 1, p. 10. The Department testified that Respondent received FIP and foster care payments for the months of [REDACTED] of 2014. The Department argued this caused an overpayment of FIP benefits for the period of [REDACTED] to [REDACTED] due to excess income.

At the hearing, Respondent acknowledged that she received the daily payments of [REDACTED] beginning [REDACTED]. Moreover, Respondent testified that she left a voicemail to the Department on [REDACTED] 2014, notifying it that she began receiving foster care payments. However, the Department testified that its system indicated a report date of [REDACTED], 2014. Respondent testified that the payments were payable to her, but were only used for the care of the children.

It should also be noted that the following was discovered during the hearing: (i) the Notice of Overissuance letter failed to provide any explanation of reason for the client error or manual items (Exhibit 1, p. 20); (ii) a recoupment specialist was not present for the hearing to provide additional testimony as to the overissuance/calculation; and (iii) the Department failed to provide FIP budgets detailing the overissuance.

Based on the foregoing information and evidence, the Department failed to satisfy its burden of showing that Respondent received a FIP benefit OI totaling [REDACTED].

First, the Department will notify the group of a client error by sending a completed DHS-4358A, Notice of Overissuance and other documentation. See BAM 715, p. 10. An explanation of the reason for overissuance, along with the manual items, must be filled out using the view pending screen in the correspondence. BAM 715, p. 10. In this case, Respondent's Notice of Overissuance failed to state any explanation of reason for the overissuance or the manual items used. See Exhibit 1, p. 20. As such, the evidence presented that the Department failed to provide Respondent with a completed DHS-4358A, Notice of Overissuance, as required per Department policy. See BAM 715, p. 10.

Second, Respondent provided credible testimony that she properly reported the unearned income in accordance with Department policy. See BAM 105, p. 7. Respondent provided a detailed hearing request that supported her assertion that she contacted the Department on [REDACTED]. See Exhibit 1, p. 5. Because Respondent properly reported the unearned income, there is no client error present. Instead, the Department should have pursued the OI based on agency error. BAM 705 (July 2014), p. 1. Therefore, the Notice of Overissuance improperly stated the overissuance was based on client error. See Exhibit 1, p. 20; BAM 705, p. 9; and BAM 715, p. 10.

Third, a recoupment specialist was not present for the hearing to provide additional testimony as to how the overissuance was calculated. See BAM 715, pp. 3-4 (within 90 days of determining an overissuance occurred, the Recoupment Specialist (RS) must: obtain all evidence needed to establish it, calculate the amount, etc...).


Fourth, the local office and client or Authorized Hearing Representative (AHR) will each present their position to the Administrative Law Judge (ALJ), who will determine whether the actions taken by the local office are correct according to fact, law, policy and procedure. BAM 600 (July 2014), p. 34. Both the local office and the client or AHR must have adequate opportunity to present the case, bring witnesses, establish all pertinent facts, argue the case, refute any evidence, cross-examine adverse witnesses, and cross-examine the author of a document offered in evidence. BAM 600, p. 35. The ALJ determines the facts based only on evidence introduced at the hearing, draws a conclusion of law, and determines whether DHS policy was appropriately applied. BAM 600, p. 37. In this case, the Department failed to provide FIP budgets detailing the over issuance. As such, the Department did not satisfy its burden of showing that it acted in accordance with Department policy when it did not establish an OI amount for FIP benefits. See BAM 600, pp. 34-37.

Additionally, for FIP benefits, the Department excludes government, court or private agency payments for child foster care and independent living stipends. BEM 503 (July 2014), p. 5. Receipt of child foster care payments affects an individual's FIP eligibility determination group (EDG) participation status. BEM 210 (July 2013) p. 7. A recipient of children's foster care payments has a FIP EDG participation status of Excluded Child. BEM 210, p. 8. The income, assets, needs and relationships to other household members are not considered. BEM 210, p. 8. This child has no effect on FIP eligibility determination. BEM 210, p. 8. The policy appeared to indicate that Respondent might have possibly been eligible for FIP benefits for a group size of [REDACTED] (children excluded due to the receipt of foster care payments). BEM 210, p. 8. This would have affected the over issuance calculation; however, the Department failed to provide any OI budgets to review. Nevertheless, the Department failed to satisfy its burden of showing that Respondent received a FIP benefit OI totaling [REDACTED] for the above stated reasons.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that the Department did not establish a FIP benefit OI to Respondent totaling [REDACTED].

Accordingly, the Department is REVERSED.



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

Date Signed: [REDACTED]/2015

Date Mailed: [REDACTED]/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

cc:



Jeanette Cowens
Wayne-District 41 (Fort Wayne)
BSC4-Hearing Decisions
D. DeCaire
M. Blasius
S. Schafer
DHS-OIG-Hearings