

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF: [REDACTED],
Claimant

Reg. No: 2007-15659
Issue No: 1020; 3020
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
September 2, 2009
Lake County DHS

ADMINISTRATIVE LAW JUDGE: Jay W. Sexton

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon claimant's request for a hearing. After due notice, an in-person hearing was held on September 2, 2009, at the Lake County DHS offices in Baldwin. Claimant personally appeared and testified under oath.

The department was represented by Ginger M. Motzer (FIM) and Rachel Cabinaw (Recoupment Specialist).

ISSUES

- (1) Did the department correctly request recoupment/repayment of a \$568 FIP overissuance (client reporting errors) for the period May 2004 through August 2004?
- (2) Did the department correctly request recoupment/repayment of a \$32 FAP overissuance (client reporting errors) for the period November 2003 through July 2004?

FINDINGS OF FACT

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

ISSUE #1

- (1) The department proposes to recoup a FIP overissuance of \$568 due to claimant error in reporting her income for FIP eligibility purposes.
- (2) During the period in question, claimant was employed by the [REDACTED]. Her employment began in September 2003.
- (3) Claimant did not report her job start within the required ten days.
- (4) Claimant adopted her grandson ([REDACTED]) on March 3, 2004. Claimant reported the adoption to the department three months late.
- (5) Claimant began receiving RSDI income for [REDACTED] and herself in April 2004. Claimant did not report her RSDI income to the department until June 2004.
- (6) Claimant's failure to report her employment and RSDI income, associated with claimant's adoption of [REDACTED], resulted in a FIP overpayment for the period in question of \$586.
- (7) Based on the recoupment budgets prepared by the recoupment specialists, the specialist sent claimant the following notices: DHS-4358A, B, C, and D. The recoupment specialist requested that claimant voluntarily repay the FIP overissuance of \$586.
- (8) Claimant refused to repay the FIP overissuance as requested by the department, and filed a timely hearing request.

ISSUE #2

(9) The department proposes to recoup a FAP overissuance of \$32 due to claimant's failure to report her employment with the probation department and her receipt of RSDI income, on [REDACTED] behalf, in a timely fashion.

(10) During the period in question, claimant was employed by the [REDACTED]

[REDACTED]. Her employment began in September 2003.

(11) Claimant did not report her job start within the required ten days.

(12) Claimant adopted her grandson, [REDACTED], on March 3, 2004. She did not report the adoption to the department until June 2004.

(13) Claimant began receiving RSDI income for [REDACTED] and herself in April 2004. Claimant did not report her RSDI income to the department until June 2004.

(14) Claimant's failure to report her employment and her RSDI income, associated with claimant's adoption of [REDACTED], resulted in a FAP overpayment for the period in question of \$32. On March 9, 2009, the recoupment specialist sent claimant the following notices: DHS-4358A, B, C, and D.

(15) On March 9, 2007, the recoupment specialist requested that claimant voluntarily repay the \$32 FAP overissuance.

(16) Claimant refused to repay the \$32 FAP overissuance, as requested. On March 14, 2007, claimant filed a timely hearing request.

CONCLUSIONS OF LAW

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 8 USC 601, *et seq.* The Department of Human Services (DHS or department) administers the

FIP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3101-3131. The FIP program replaced the Aid to Dependent Children (ADC) program effective October 1, 1996. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

The Food Assistance Program (FAP) (formerly known as the Food Stamp (FS) program) is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). The Department of Human Services (DHS or department) administers the FAP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3001-3015. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

The department's policy which is applicable in this case regarding recoupment/repayment of FIP/FAP overissuances may be summarized as follows:

When a client who receives more FIP/FAP benefits than policy allows, the department must attempt to recover the overissuance. PAM 105, 220, 717, and 775.

The preponderance of the evidence in the record shows that claimant, due to claimant error, received a FIP overissuance of \$586 and a FAP overissuance of \$32, respectively.

Based on current department policy, the department must recoup the FIP and FAP overissuances which claimant received for the two periods in question. The recoupments are required, because they were caused by client error. See PEM 210, 518, 550, and PAM 105, 600, 700, 720 and 725.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department's recoupment action with respect to the FIP and FAP overissuance periods, as discussed above, is correct.

Accordingly, the department's actions are, hereby, AFFIRMED.

Accordingly, the department shall recover the FIP overissuance of \$586 and the FAP overissuance of \$32 for the periods in question.

The total amount to be recovered is \$618.

SO ORDERED.

/S/ _____
Jay W. Sexton
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: March 29, 2010

Date Mailed: March 30, 2010

NOTICE: Administrative Hearings 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. Administrative Hearings 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.

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 was made, within 30 days of the receipt date of the rehearing decision.

JWS/tg

2007-15659/jws

cc:

