

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: 200715704
Issue No: 3052;1030
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
July 29, 2009
Genesee County DHS

ADMINISTRATIVE LAW JUDGE: Robert J. Chavez

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, a hearing was held on July 29, 2009.

ISSUE

Was the claimant properly determined to have an overissuance in the FIP program of \$861?

FINDINGS OF FACT

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

- (1) Claimant was a FIP recipient in Genesee County.
- (2) In December 2006, DHS received a CH 670 report that indicated claimant was receiving CDC payments.
- (3) A referral was made to a RS specialist to investigate a potential overissuance as a result of the CDC payments.

- (4) On March 13, 2007, DHS notified the claimant that she had received CDC payments during three months in the year 2006.
- (5) These payments had not been properly budgeted in claimant's FAP or FIP case.
- (6) The Department subsequently determined that claimant had an overissuance of \$861 in FIP benefits.
- (7) The Department admitted that this was an agency error and would be recouped as such.
- (8) On March 14, 2007, claimant requested a hearing, alleging that she should not have to pay the money back because she had fulfilled her obligations to the Department.
- (9) A hearing was held on July 29, 2009.
- (10) Claimant was represented, at hearing, by [REDACTED]
[REDACTED].

CONCLUSIONS OF LAW

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 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).

A client/CDC provider error overissuance (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. PAM 715. This includes failing to report a change. An agency error OI is caused by incorrect actions (including delayed or no action) by DHS or Department processes. PAM 705. When a client group receives more benefits than they are entitled to receive, DHS must attempt to recoup the overissuance. PAM 700.

Agency error OI's are not pursued if the estimated OI amount is less than \$500 per program. Client error OIs are not established if the OI amount is less than \$125, unless the client is active for the OI program or the OI is a result of a Quality Control (QC) audit finding. PAM 700.

In the current case, the Department contends that while the claimant fulfilled all legal obligations, no action was taken by the Department, and claimant was issued more FIP benefits than she was legitimately entitled to; these benefits need to be recouped. Claimant contends that any error was the fault of the Department, and claimant should not have to pay back the overissuance because of an agency mistake.

Unfortunately, even though claimant did report, and the Department made a mistake, this does not change the recoupment prospects. PAM 700 states that the Department must pursue any OI that was the result of agency error if the amount is above \$500. Claimant's OI is above that amount. Therefore, the OI must be recouped, regardless of whose fault the error was.

Furthermore, the Department appears to be within the Standards of Promptness for the processing of the OI recoupment. Claimant received notice of the overissuance on March 13, 2007. The OI was first suspected in December 2006. The Department has 60 days, from the date an OI is suspected, to refer the case to a Recoupment Specialist; the RS then has 60 days to determine whether an OI occurred. PAM 700. Claimant received the OI notice on March 13, which is well below the SOP dates to refer a case.

However, the case took over 2 years to be scheduled by SOAHR for a hearing after the claimant's initial hearing request. While this is unfortunate, the undersigned sees no immediate remedy to address this issue. Failure to schedule a hearing can only be addressed by scheduling the hearing, which has been done in this case. Claimant has been given her opportunity to be heard and protest the Department actions; the undersigned has no power to overturn a Department action based on the failure to schedule a hearing by a completely separate agency.

Finally, the Administrative Law Judge notes that because claimant's FIP allocation is going to be recouped, that amount should be removed from claimant's FAP budgets for the time period in question, as claimant will be paying the budgeted FIP grant back to the Department. PEM 500 states that recouped non-IPV FIP benefits are excluded income and should not count in a FAP assistance budget. Claimant's actual FIP amounts for the months in question should be used. This may end up affecting claimant's FAP allocation for those months; if it is determined that claimant was under-issued FAP benefits as a result of the FIP recoupment, supplemental FAP benefits should be issued to the claimant.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the claimant was the recipient of an overissuance of FIP benefits in the

amount of \$861. Therefore, the Department's decision to initiate recoupment of claimant's FIP overissuance was correct.

Accordingly, the Department's decision in the above stated matter is, hereby,
AFFIRMED.

Recoupment of FIP benefits in the amount of \$861 is authorized.

The Department is ORDERED to initiate recoupment of the overissuance, per the regulations contained in PAM 700 pertaining to Agency Error.

The Department is FURTHER ORDERED to review claimant's FAP budgets from September, November, and December 2006, removing the FIP income from those months from the FAP budget, issuing supplemental FAP benefits if necessary.



Robert J. Chavez
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 05/12/10

Date Mailed: 05/13/10

NOTICE: The law provides that within 30 days of receipt of the above Decision and Order, the respondent may appeal it to the circuit court for the county in which he/she lives.

RJC/dj

cc:

