

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2007-27426
Issue No.: 3055/1052
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: September 22, 2010
Oakland County DHS (2)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the claimant's request for a hearing. After due notice, a telephone hearing was held on September 22, 2010. The claimant appeared and testified. [REDACTED] Recoupment Specialist appeared on behalf of the Department.

ISSUE

Whether the Claimant received an over issuance of Food Assistance FAP and FIP Cash Assistance benefits that the Department is entitled to recoup?

FINDINGS OF FACT

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

1. The Claimant filed a hearing request on June 29, 2007 requesting a hearing regarding the Department's Notice of Overissuance of FIP Cash Assistance benefits and FAP benefits which the Department was attempting to recoup. Claimant Exhibit 1.
2. On October 6, 2006 the claimant had filed an application for cash assistance, medical assistance and state emergency relief. Exhibits 11
3. The claimant did not advise the department of income which she received from her daughter receiving RSDI Social Security benefits.
4. On November 6, 2006 the claimant applied for food assistance benefits (FAP) and did not advise the department in the application of income

which you received from her daughter receiving RSDI Social Security benefits. Exhibit 12

5. The respondent was recipient of FAP benefits and acknowledged receiving FAP benefits during the period beginning October 2006 through December 2006. The claimant did not recall the specific amounts of benefits she received.
6. Department records show that the claimant received FIP benefits biweekly and the amount of \$200.50 for the period October 6, 2006 through December 2006 for a total of \$1002.
7. The claimant received an over issuance of FIP benefits in the amount of \$962. Exhibits 4,5 and 6
8. The claimant received an over issuance of the FAP benefits in the amount of \$128. Exhibits 4 and 8.
9. As a result of client error due to the claimant's failure to report her daughter's RSDI income the claimant was over issued both FIP and FAP benefits.
10. The over issuance resulted because the RSDI income was not included in the budget calculations for the benefits which the claimant had applied for.
11. At the hearing, the claimant denied that she ever received any of the FIP benefits, but did acknowledge receiving FAP benefits.
12. As evidence of the claimant's receipt of FIP benefits, the department introduced a series of Warrants by check number that the department issued under the claimant's case number, Exhibit 1.
13. As further evidence of Claimant's receipt of FIP benefits, the Department introduced records that she received FIP benefits and that funds were deposited on her Bridge card during the period in question. Exhibits 11 and 12.
14. The Department also established that the Claimant withdrew funds constituting FIP benefit deposits from the Bridge card during the same period. Exhibit 11
15. The claimant's request for hearing indicated that she did not have money to pay the over issuance and contained a series of complaints about the

department attempting to seek repayment of benefits. The claimant's request for hearing does not mention or refer to the fact that the claimant never received the FIP benefits that the department was attempting to recoup. Claimant's Exhibit 1

16. The claimant acknowledges that he it was her mistake when completing both the applications she submitted to the department to forget to include the RSDI income her daughter was receiving.
17. The Department did establish that the Claimant did have unearned income in the amount of \$398 a month from her daughters receipt of the RSDI benefits. Exhibit 3.
18. The FIP and FAP budgets submitted by the department to establish the amounts of the over issuance are correct and established the over issuance amount's it seeks to recoup. Exhibits 5, 6 and 7(FIP benefits); and Exhibit 8 (FAP benefits).
19. The Department is entitled to a recoupment of over issuance of FAP benefits for the months of November and December 2006 in the amount of \$128. Exhibit 4
20. The Department is entitled to any recoupment of over issuance of FIP benefits in the amount of \$962 for the period October 2006 through December 2006. Exhibit 4

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 (formerly known as the Family Independence Agency) administers the FAP program pursuant to CML 400.10 *et seq.*, and MAC R 400.3001-3015. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

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 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

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policies are found in the Program Administrative Manual ("PAM"), the Program Eligibility Manual ("PEM"), and the Program Reference Manual ("PRM").

When a client group receives more benefits than they are entitled to receive, DHS must attempt to recoup the over issuance (OI). BAM 700, p. 1. DHS must inform clients of their reporting responsibilities and prevent OIs by following BAM 105 requirements informing the client of the requirement to promptly notify DHS of all changes in circumstances within 10 days. BAM 700, BAM 105. Incorrect, late reported or omitted information causing an OI can result in cash repayment or benefit reduction.

In the present case, the Department has established that the claimant received over issuance of both FIP and FAP benefits and did so by clear and convincing evidence consisting of the budgets demonstrating the amount of benefits the claimant should have received versus the benefits she did receive. The claimant also acknowledges the she inadvertently failed to report the receipt of RSDI income by her daughter.

While the claimant's denied receiving FIP benefits, the evidence presented by the department indicates that actual warrants were issued to the claimant's case account and the case was closed once it was determined that the claimant's daughter received income which had not been reported therefore making the group ineligible to receive either FIP or FAP benefits. The Department also produced records showing the actual deposits to the Claimant's bridge card and withdrawals from the card during the period in which the Claimant said she did not receive FIP benefits.

The decision is also influenced in part by the fact that at the time the claimant filed her hearing request in 2007, which was several months after her FIP benefits were reduced, she did not call attention to the fact that she had never received the FIP benefits that the department had advised her it intended to recoup. The claimant clearly understood the department was trying to recoup FIP cash benefits but at no time mentioned she had not received the benefits. See Claimant's Request for Hearing.

The amount of the over issuance contained in the Decision and Order and Findings of Fact was based on the documentary evidence submitted. As budgets for each month of the FAP over issuance were submitted to establish the amounts of benefits that were received by the claimant that she was not entitled to receive. Further, the Department also submitted a FIP budgets that clearly established the amount of the FIP (cash assistance) benefits the Claimant was over issued.

Based upon the Record as a whole it has been established that the Department is entitled to a recoupment of both FIP (cash assistance) and FAP (food assistance benefits the Respondent received but was not entitled to.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that respondent did not commit an IPV with regard to the FIP or FAP program although she received over issuances in program benefits.

It is ORDERED that the Department is entitled to recoup for over issuances in FAP benefits in the amount of \$128.00.

It is ORDERED that the Department is entitled to recoup for over issuances in FIP benefits in the amount of \$962.00.

The Respondent shall be required to reimburse the Department the FAP benefits ineligibly received in the amount of \$128.00.

The Respondent shall be required to reimburse the Department the FIP benefits ineligibly received in the amount of \$962.00.



Lynn M. Ferris
Administrative Law Judge
For Ismael Ahmed, Director
Department of Human Services

Date Signed: 9/27/2010

Date Mailed: 9/27/2010

NOTICE: The law provides that within 60 days from the mailing date of the above decision the Respondent may appeal it to the circuit court for the county in which he/she resides or has his or her principal place of business in this state, or in the circuit court for Ingham County. Administrative Hearings, on its own motion, or on request of a party within 60 days of the mailing date of this Hearing Decision, may order a rehearing.

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cc:

