

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.: 200710588  
Issue No.: 1030; 3052  
Case No.: [REDACTED]  
Load No.: [REDACTED]  
Hearing Date: July 28, 1010  
Muskegon County DHS

**ADMINISTRATIVE LAW JUDGE:** Christian Gardocki

**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 July 28, 1010. The claimant appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED], Manager and [REDACTED], Recoupment Specialist, appeared and testified.

**ISSUE**

Whether DHS properly sought recoupment of \$1252 in Family Independence Program (FIP) benefits and \$739 in Food Assistance Program (FAP) benefits.

**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 an ongoing FIP and FAP benefit recipient.
2. Claimant began employment at [REDACTED] beginning 3/8/06. Exhibit 5.
3. Claimant timely reported the employment to her case manager at Work First (Exhibit 6).
4. Claimant's Work First case manager failed to report the employment to Claimant's DHS specialist.

5. Had DHS timely budgeted Claimant's employment income, Claimant's FIP and FAP benefits would have been affected beginning with benefit month 5/2006.
6. DHS did not budget Claimant's employment income in Claimant's FIP and FAP budgets until 8/2006.
7. Claimant originally received a total of \$1467 in FIP benefits from 5/2006-7/2006.
8. Had Claimant's employment income been budgeted, Claimant would have received a total of \$215 in FIP benefits from 5/2006-7/2006. Exhibit 3.
9. Claimant received a total of \$1047 in FAP benefits from 5/2006-7/2006. Exhibit 4.
10. DHS alleges that had Claimant's employment income been properly budgeted then Claimant would have received \$308 in FAP benefits.
11. In calculating the amount of FAP benefits that Claimant should have received from 5/2006-7/2006, DHS budgeted the FIP benefits (\$489/month) which Claimant originally received, but which is now being recouped.
12. DHS mailed Claimant a Notice of Over-Issuance (Exhibit 2) on 9/28/06 advising Claimant that DHS is attempting to recoup \$1252 in over-issued FIP benefits and \$739 in over-issued FAP benefits.
13. DHS admits that the over-issuance was caused by an agency error.
14. Claimant requested a hearing on 10/5/06 regarding the recoupment of FAP and FIP benefits.

### **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 (formerly known as the Family Independence Agency) 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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

When a client group receives more benefits than they are entitled to receive, DHS must attempt to recoup the over-issuance (OI). BAM 700 at 1. An OI is the amount of benefits issued to the client group in excess of what they were eligible to receive. *Id.* Recoupment is a DHS action to identify and recover a benefit OI. *Id.*

DHS may pursue an OI whether it is a client caused error or DHS error. *Id.* at 5. An over-issuance caused by DHS error is not pursued if the estimated OI amount is less than \$125 per program. BAM 705 at 1. If improper budgeting of income caused the OI, use actual income for the past OI month for that income source. BAM 705 at 6.

DHS conceded that the failure to timely budget Claimant's employment income was their fault and not Claimant's. Client contended that she should not have to repay benefits that were over-issued to her through no fault of her own. Though Claimant's argument may be morally correct, DHS policy allows for recoupment of benefits even when the over-issuance is caused by their own error.

DHS provided FIP over-issuance budgets from 5/2006 through 7/2006. DHS properly calculated Claimant's benefit amount had her employment income been timely budgeted. DHS subtracted the correct FIP benefit issuance from Claimant's original benefit issuance. It is found that DHS properly calculated an over-issuance of FIP benefits in the amount of \$1252.

The DHS FAP over-issuance budgets calculated Claimant's FAP benefit issuance by including FIP benefits that Claimant received in 5/2006-7/2006. Though Claimant received \$489/month in FIP benefits in each of the months from 5/2006-7/2006, DHS now is recouping those benefits. Had the benefit over-issuance been caused by Claimant, the undersigned might be inclined to find that Claimant's correct FAP benefit issuance should include FIP benefits which Claimant has to repay. In the present case, the over-issuance was caused by DHS, not Claimant. In such a case, it would truly be unfair to Claimant to calculate her FAP benefits and to include FIP benefit income which Claimant is now required to repay. It is found that the DHS FAP benefit calculation is incorrect for including FIP benefit income which Claimant is required to repay.

DHS may still seek to recoup over-issued FAP benefits. However, if DHS elects to pursue recoupment of over-issued FAP benefits from 5/2006-7/2006, calculation of Claimant's "correct" FAP issuance should disregard FIP income received in those months.

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DHS policy does not appear to allow a claim of financial hardship for clients seeking to reduce or eliminate FIP benefit recoupment amounts. DHS policy does allow requests to waive FAP benefit recoupment based on financial hardship. BAM 725 at 13. To claim such a hardship, clients may write a letter outlining their circumstances and send it to:


Food Assistance Policy Office,  
Suite 1301  
235 S. Grand Ave  
P.O. Box 30037  
Lansing, MI 48909

### **DECISION AND ORDER**

The actions taken by DHS are partially AFFIRMED. The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly sought recoupment of \$1252 in over-issued FIP benefits.

The actions taken by DHS are partially REVERSED. The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly calculated Claimant's FAP benefits over-issuance. It is ordered that DHS may not proceed with the 5/2006-7/2006 recoupment of FAP benefits as previously calculated. Claimant shall receive a supplement for any part of the \$724 in FAP benefits that may have already been recouped.

/s/

  
Christian Gardocki  
Administrative Law Judge  
For Ismael Ahmed, Director  
Department of Human Services

Date Signed: August 11, 2010

Date Mailed: August 11, 2010

**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.

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