

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

IN THE MATTER OF:

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████████████████████
████████████████████

Reg. No: 200718052
Issue No: 4060
Case No: ██████████

Hearing Date:
March 1, 2011
Genesee County DHS

ADMINISTRATIVE LAW JUDGE: Kevin Scully

HEARING DECISION

This matter is before the undersigned Administrative Law Judge by authority of MCL 400.9 and MCL 400.37. Claimant's request for a hearing was received on May 18, 2007. After due notice, a telephone hearing was held on March 1, 2011.

ISSUE

Did the Department of Human Services properly determine that Claimant was over-issued \$1,770 in Family Independence Program (FIP) benefits and \$1,261 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. The Claimant was an ongoing Family Independence Program (FIP) and Food Assistance Program (FAP) recipient.
2. On January 3, 2007, the Claimant notified the Department that she had returned to work.
3. The Claimant received Family Independence Program (FIP) benefits from March 1, 2007, through April 30, 2007.
4. The Claimant received Food Assistance Program (FAP) benefits from February 1, 2007, through April 30, 2007.

5. The Department sent the Claimant a Verification Checklist with a due date of April 20, 2007. The Department requested verification of the Claimant's income.
6. Due to Department error, the Claimant's earned income was not used to determine her eligibility for FIP and FAP benefits.
7. From March 1, 2007, through April 30, 2007, the Claimant received FIP benefits totaling \$1,796, but would have been eligible for \$26 if her earned income had been considered.
8. From February 1, 2007, through April 30, 2007, the Claimant received FAP benefits totaling \$2,172, but would have been eligible for \$911 if her earned income had been considered.
9. On May 15, 2007, the Department notified the Claimant that she had received an overissuance of FIP benefits totaling \$1,770, and an overissuance of FAP benefits totaling \$1,261.
10. The Department received the Claimant's request for a hearing on May 18, 2007, protesting the recoupment of FIP and FAP benefits.

CONCLUSIONS OF LAW

The Food Assistance Program (FAP) (formerly known as the Food Stamp 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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), Reference Table Manual (RFT), 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 (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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), Reference Table Manual (RFT), and the Bridges Reference Manual (BRM).

All earned and unearned income available to the Claimant is countable. Earned income means income received from another person or organization, or from self-employment for duties that were performed for compensation or profit. Unearned income means all income that is not earned, including but not limited to funds received from the Family Independence Program (FIP), State Disability Assistance (SDA), Child Development and Care (CDC), Medicaid (MA), Social Security Benefits (RSDI/SSI), Veterans

Administration (VA), Unemployment Compensation Benefits (UCB), Adult Medical Program (AMA), alimony, and child support payments. The amount counted may be more than the client actually receives because the gross amount is used prior to any deductions. BEM 500.

The Department determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. Actual income is income that was already received. Prospective income is income not yet received but expected. Prospective budgeting is the best estimate of the client's future income. BEM 505.

All income is converted to a standard monthly amount. If the client is paid weekly, the Department multiplies the average weekly amount by 4.3. If the client is paid every other week, the Department multiplies the average bi-weekly amount by 2.15. BEM 505.

An overissuance is the amount of benefits issued to the client group in excess of what they were eligible to receive. BAM 705. The amount of the overissuance is the amount of benefits the group actually received minus the amount the group was eligible to receive. BAM 720. When a client group receives more benefits than they are entitled to receive, the Department must attempt to recoup the overissuance. BAM 700.

Department errors are caused by incorrect actions by the Department. BAM 705. Department error overissuances are not pursued if the estimated overissuance is less than \$125 per program. BAM 700. Client errors occur when the customer gave incorrect or incomplete information to the Department. Client errors are not established if the overissuance is less than \$125 unless the client group is active for the overissuance program, or the overissuance is a result of a quality control audit finding. BAM 700.

In this case, the Claimant was an ongoing Family Independence Program (FIP) and Food Assistance Program (FAP) recipient. On January 3, 2007, the Claimant contacted the Department and notified her case worker that she had returned to work. The Department sent the Claimant a Verification Checklist and requested that she supply verification of her new earned income. The Claimant provided the Department with copies of her paycheck stubs.

However, due to Department error, the Claimant's earned income was not used to determine her eligibility for FIP and FAP benefits. From March 1, 2007, through April 30, 2007, the Claimant received FIP benefits totaling \$1,796, but would have been eligible for \$26 if her earned income had been considered. From February 1, 2007, through April 30, 2007, the Claimant received FAP benefits totaling \$2,172, but would have been eligible for \$911 if her earned income had been considered. On May 15, 2007, the Department notified the Claimant that she had received an overissuance of FIP benefits totaling \$1,770, and an overissuance of FAP benefits totaling \$1,261.

The Claimant did not dispute that she received earned income from February 1, 2007, through April 30, 2007, but argued that she had reported this income to the Department as required.

The Claimant argued that the unreported income should not be counted against her for the purposes of determining her eligibility to receive FIP and FAP benefits. The Claimant testified that the Department had notified her that she did not have to report small changes in her income. The Claimant argued that since there was no requirement to report her change in income, that this information should not be used to determine an overissuance of benefits.

Clients must report changes in circumstance that potentially affect eligibility or benefit amount within 10 days of receiving the first payment reflecting the change. BAM 105. Income reporting requirements are limited to the following:

Earned income:

- Starting or stopping employment.
- Changing employers.
- Change in rate of pay.
- Change in work hours of more than five hours per week that is expected to continue for more than one month.

Unearned income:

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

Other changes:

- Persons in the home.
- Marital status.
- Address and shelter cost changes that result from the move.
- Vehicles.
- Assets.
- Child support expenses paid.
- Health or hospital coverage and premiums.
- Day care needs or providers. BAM 105

While the Department may not require benefit recipients to report small changes in their income between redetermination periods, Bridges Administration Manuel Item 105 requires new employment to be reported to the Department. In this case, the Claimant did report her new income, but due to Department error, this new income was not used to determine her eligibility for benefits. The Department is required to pursue an overissuance of benefits based on Department error.

The Claimant received FIP and FAP benefits that she was not entitled to receive as a result of the Department's failure to consider her earned income. The amount of FIP and FAP benefits the Claimant received that she was not entitled to was greater than \$125 each. This overissuance of benefits fits the policy definition of a Department error overissuance.

Based on the evidence and testimony available during the hearing, the Department has established that the Claimant received a \$1,770 overissuance of FIP benefits and a \$1,261 overissuance of FAP benefits due to Department error.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the Department of Human Services properly determined that Claimant was over-issued \$1,770 in Family Independence Program (FIP) benefits and \$1,261 in Food Assistance Program (FAP) benefits.

It is ORDERED that the actions of the Department of Human Services, in this matter, are UPHeld.

/s/ _____
Kevin Scully
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: March 14, 2011

Date Mailed: March 15, 2011

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 60 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.

KS/tg

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