

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 21296  
Issue No: 3020  
Case No: [REDACTED]  
Load No: [REDACTED]  
Hearing Date:  
November 24, 2010  
Wayne County DHS (17)

**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 conducted from Detroit, Michigan on November 24, 2010. The Claimant did not appear. Elyse Williams, Assistant Payment Supervisor, Recoupment unit appeared on behalf of the Department.

ISSUE

Whether the Department is entitled to a recoupment of the Claimant's FAP benefits in the amount of \$1354 for a FAP over-issuance for the period from 7/1/06 through 3/30/07 and a FIP recoupment for the same time period in the amount of \$2214 due to the Department's failure to properly include Claimant's CDC self employment income earned when computing the FAP and FIP budgets.

FINDINGS OF FACT

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

1. The Claimant was an active Food Assistance Program (FAP) benefits recipient and Family Independence Program (FIP) benefits recipient during the period July 1, 2006 through March 30, 2007.
2. The Department sought a recoupment due to an over-issuance of both FAP and FIP benefits in the amount of \$1354 (FAP) and \$2214 (FIP). Exhibit 13 and 14.
3. The period of over-issuance began July 2006 and ended March 2007.
4. The Claimant provided the Department gross income earnings from her home help care provider. (Exhibit 4) During the period, the Claimant also had earnings as a CDC provider providing CDC care in her home. Exhibit 7
5. The Claimant was over-issued FIP and FAP benefits during the period. Exhibit 5 and 6.
6. The Department erroneously included the Claimant's CDC income as earned income without applying the 25% expense offset when calculating the Claimant's earnings and thus committed an Agency Error with regard to the calculation.
7. The Claimant is entitled to an \$86 credit due to an under-issuance of FAP benefits and an adjustment was made to the total FAP over-issuance summary to account for the adjustment which was corrected in Exhibit 13 and Exhibit 29 at the hearing.
8. The Department provided monthly budgets for the period of over-issuance, July 2007 through March 2007, which calculated the correct FIP

and FAP benefits the claimant should have received. During the period in question, the Claimant was not entitled to receive any FIP benefits and was over-issued FAP benefits in varying amounts based on her fluctuating income. Exhibits 20 through 29.

9. The Budgets as calculated by the Department are correct. Exhibits 14 – 29.
10. On May 7, 2007, the Department received the Claimant's written request for a hearing protesting the proposed request for recoupment of the Claimant's FAP and FIP benefits.

#### CONCLUSIONS OF LAW

The Food Assistance Program, 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"), formally known as the Family Independence Agency, administers the FAP program pursuant to MCL 400.10, *et seq* and MAC R 400.3001-3015. Departmental policies are found in the Bridges Administrative Manual ("BAM"), the Bridges Eligibility Manual ("BEM"), and the Reference Table ("RFT").

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 Bridges Program Reference Manual (PRM).

In this case, the Department seeks recoupment of an over-issuance of Food Assistance benefits (FAP) and Family Independence Program benefits (FIP) due to the Department's failure to include the correct amount of the Claimant's self employment income as a CDC provider and failed to include the Claimant's income as a home help care provider.

An over-issuance ("OI") occurs when a client group receives more benefits than they are entitled to receive. BAM 700, p. 1. A claim is the resulting debt created by the over issuance of benefits (OI). Id. Recoupment is an action to identify and recover a benefit. Id. The Department must take reasonable steps to promptly correct any overpayment of public assistance benefits, whether due to department or client error. BAMs 700, 705, 715, and 725. An agency error OI is caused by incorrect actions by DHS, DIT staff, or department processes. BAM 705, p. 1. In general, agency error OIs are not pursued if OI amount is under \$500.00 per program. BAM 705, pp. 1-3. In this case the amount of both over issuance exceeds \$500 dollars so the department is entitled to pursue the FAP over issuance involved in this matter.

In the subject case, the Department paid the Claimant both FAP and FIP benefits without including the correct income received by the Claimant's FAP and FIP groups based on the Departments failure to include the income from the Claimant's earnings as a home health care provider and improperly calculating the Claimant's CDC income as self employment income. The undersigned has reviewed the FAP and FIP budgets for

the entire period and the over-issuance summaries and finds that there was an over-issuance and that the Department is entitled to a recoupment in the amount of \$1354 in FAP benefits and \$2214 in FIP benefits. Accordingly, the Department's action for OI and recoupment of the Claimant's FAP benefits is correct and the Department is entitled to recoupment and to initiate collection procedures in accordance with Department policy.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department properly calculated the Claimant's FAP benefits to be over issued in the amount of \$1354 and FIP benefits in the amount of \$2214 and that the Department is entitled to a recoupment in that amount.

It is, therefore, ORDERED:

1. That the claimant reimburses the Department for the FAP over issuance in the total sum of \$1354.
2. That the claimant reimburses the Department for the FAP over issuance in the total sum of \$2214.
3. That the Department is entitled to and shall initiate collection procedures in accordance with Department policies.



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

Date Signed: 01/19/11

Date Mailed: 01/21/11

**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.

LMF/

cc:

