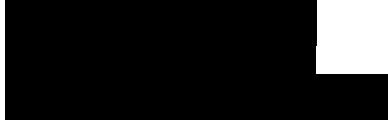




STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES


IN THE MATTER OF:



Reg. No.: 2007-22010
Issue No.: 4060
Case No.: 
Load No.: 
Hearing Date: December 1, 2010
Calhoun County DHS (21)

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 Ms. Patrick's (Respondent) request for a hearing. After due notice, a telephone hearing was held on December 1, 2010. Respondent failed to appear. On behalf of Department of Human Services (DHS), , Recoupment Specialist, appeared and testified.

ISSUE

Whether DHS properly established a sufficient basis for debt collection based on allegedly over-issued Family Independence Program (FIP) 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. Respondent was an ongoing FIP benefit recipient.
2. Respondent reported an increase in self-employment income of \$125/week to DHS on 10/5/06.
3. DHS failed to budget the reported income until 2/2007.
4. Respondent received \$339/month in FIP benefits for 12/2006 and 1/2007.
5. Had DHS timely budgeted Respondent's reported income increase, Respondent would have received \$17/month in FIP benefits for 12/2006 and 1/2007.

6. The failure by DHS to timely budget Respondent's income resulted in a \$644 over-issuance of FIP benefits.
7. On 3/28/07, DHS mailed Respondent a DHS-4358-A Notice of Over-issuance (Exhibit 10) informing Respondent of the over-issuance of FIP benefits.
8. On 3/28/07, DHS also mailed Respondent a DHS-4358-B Department and Client Error Information and Repayment Agreement (Exhibit 11), DHS-4358-C Over-Issuance Summary (Exhibit 12) and DHS-4358-D Hearing Request for Over-issuance or Recoupment Action (Exhibit 13)
9. Respondent requested a hearing on 4/27/07 disputing the recoupment/debt establishment by DHS specifically contending that DHS erred and Respondent should not be responsible for DHS error.

CONCLUSIONS OF LAW

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). At the time of the alleged over-issuance of benefits, DHS policies were found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM).

When a client group receives more benefits than they are entitled to receive, DHS must attempt to recoup the over-issuance (OI). PAM 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 client error is not pursued if the estimated OI amount is less than \$125 per program. PAM 715 at 5. Agency error OI's are not pursued if the estimated OI amount is less than \$500 per program. PAM 705 at 1. If improper budgeting of income caused the OI, DHS is to use actual income for the past OI month for that income source. PAM 705 at 6.

All cases that contain an adult member from the original OI group and are active for the program in which the OI occurred are liable for the OI and subject to recoupment. PAM

725 at 3. OIs on inactive programs are recouped through cash repayment processes. *Id.* OI balances on inactive cases must be repaid by lump sum or monthly cash payments unless collection is suspended. *Id.* at 6.

DHS requests a "Debt Collection Hearing" when the grantee of an inactive program requests a hearing after receiving the DHS-4358B, Agency and Client Error Information and Repayment Agreement. Though it is the client's hearing request which initiates the scheduling of an administrative hearing, the hearing is considered DHS requested as DHS is attempting to establish a basis for a debt collection. The hearing decision determines the existence and collectability of a debt to the agency. *Id.*

In the present case, DHS alleges that Respondent was over-issued FIP benefits totaling \$644. According to DHS, Respondent reported an increase in self-employment earnings on 10/5/06. DHS submitted a Documentation Record (DHS-223) (Exhibit 3) reflecting the reporting. Though the DHS-223 was not superbly detailed, there was a sufficient basis to conclude that Respondent reported an increase in earnings based on the submitted documentation. The DHS-223 stated "Information received: (1) \$120/week- Wickham; (2) \$125/week- Haring". In the context of Respondent's case, it can reasonably be concluded that the DHS-223 was sufficient evidence of a reporting of self-employment income for Respondent. DHS concedes that \$120/week in income was correctly budgeted for Respondent but \$125/week was not budgeted in calculating Respondent's FIP benefits for 12/2006 or 1/2007.

For income increases that result in a benefit decrease, action must be taken and notice issued to the client within the Standard of Promptness (FAP - 10 calendar days, FIP/SDA - 15 workdays). PEM 505 at 10. The effective month is the first full month that begins after the CIMS Negative Action Effective Date. *Id.* The negative action date allows for a period of time to provide clients notice of an action prior to the action taking effect. It is found that 12/2006 would be the correct month to calculate the first over-issuance of FIP benefits based on a 10/5/2006 reporting date.

DHS submitted over-issuance budgets for 12/2006 (Exhibits 5 and 6) and 1/2007 (Exhibits 7 and 8) which establish that had Respondent's self-employment income been correctly budgeted, Respondent would have received \$17 in FIP benefits for each month. DHS also established that Respondent actually received \$339 for 12/2006 and 1/2007 (Exhibit 4) which creates an over-issuance \$322 for each month and a total over-issuance of \$644 (Exhibit 9) in FIP benefits. It is found that DHS established that Respondent was over-issued \$644 in FIP benefits and that DHS may pursue debt collection to recoup this over-issuance.

Though it may be of little consolation to Respondent, DHS properly did not pursue \$291 in Food Assistance Program (FAP) benefits which were allegedly over-issued as the amount was less than the \$500 threshold to recoup benefits based on agency error.

DHS also did not pursue FIP benefits for 11/2006 which may have been over-issued as the standard of promptness to process changes coupled with the negative action period would have made 12/2006 the proper month when Respondent's FIP benefits would have been reduced.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly established \$644 in over-issued FIP benefits to Respondent. DHS may pursue debt collection actions for repayment of the over-issuance. The actions taken by DHS are AFFIRMED.

Christian Gardocki

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

Date Signed: 12/13/2010

Date Mailed: 12/13/2010

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 90 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing 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.

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