

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF: [REDACTED],
Respondent.

Reg. No: 2007-27123
Issue No: 1030, 3052
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
July 8, 2009
Kalamazoo County DHS

ADMINISTRATIVE LAW JUDGE: Ivona Rairigh

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to 7 CFR 273.18; 45 CFR 233.20(a)(13); MCL 400.9; MCL 400.37; MCL 400.43(a); MAC R 400.941 and MCL 24.201, *et seq.*, upon a hearing request by the Department of Human Services (department) to establish an overissuance of benefits to respondent. After due notice was mailed to respondent, a telephone hearing was held on July 8, 2009, at which respondent did personally appear and testify.

ISSUE

Did the respondent receive an overissuance of Family Independence Program (FIP) and Food Assistance Program (FAP) 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. Respondent applied for FIP and FAP on December 15, 2004 and signed an application, (then FIA-1171) at the in-person interview on February 4, 2005 in the presence of department's caseworker.

2. Respondent reported no earned income on her application, but the caseworker documented that she told her she has been doing odd jobs for income, receiving an average of \$75 per month in cash. Respondent also wrote a statement for the case record stating the same.

3. Respondent signed the application again on March 28, 2005 when she provided another written statement about income she was receiving doing house cleaning.

4. Respondent's FIP and FAP application was approved, but after this occurred, respondent's caseworker received a Provider Payment to Active Recipients Report Number CH-670 that showed she was receiving Child Development and Care (CDC) income, and that she had "back-billed" for pay periods before and while seeing her caseworker and signing the FIA-1171.

5. Respondent's first CDC check was issued after the FIP application was signed the second time on March 28, 2005 and CDC income was still not reported. Respondent's caseworker had no way of knowing that the respondent was working providing day care from department's computer systems because there had been no billing or checks issued to her since October 13, 2004.

6. Respondent also received a child support payments after her FIP grant was opened that she did not return to the State of Michigan as required and stated on the signature page of the FIA-1171, in a paragraph that advises clients that as a condition of FIP eligibility they are assigning child support to the State.

7. As a result of respondent's failure to report CDC income and to return her child support check to the State, she was overissued \$495 in FIP benefits and \$655 in FAP benefits for the time period of April, 2005 through June, 2005.

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 (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) and the Program Reference Manual (PRM).

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 (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) and the Program Reference Manual (PRM).

Departmental policy, BAM 725, Collection Actions, states that when the client group receives more benefits than entitled to receive, DHS must attempt to recoup the overissuance (OI). Repayment of an OI is the responsibility of anyone who was an eligible, disqualified, or other adult in the program group at the time the OI occurred. Bridges will collect from all adults who were a member of the case. OIs on active programs are repaid by lump sum cash payments,

monthly cash payments (when court ordered), and administrative recoupment (benefit reduction). OI balances on inactive cases must be repaid by lump sum or monthly cash payments unless collection is suspended.

Respondent's FIP and FAP overissuance was determined to be client error. Respondent's hearing testimony is that it was through the error on part of her caseworker that she received FIP and FAP benefits she was not entitled to receive. This Administrative Law Judge finds that the evidence presented by the department does not establish that any error on part of the caseworker occurred, but that the claimant failed to report her circumstances in an accurate manner, and return her child support check in a timely manner. Even if the overissuance to the respondent was department's error, departmental policy still requires that the department recoup it. Respondent is therefore responsible for repayment of the overissuance.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the respondent received an overissuance of FIP and FAP benefits for the time period of April, 2005 through June, 2005 that the department is entitled to recoup.

Department is therefore entitled to recoup FIP overissuance of \$495 and FAP overissuance of \$655 from the respondent. SO ORDERED.

Ivona Rairigh
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: _____

Date Mailed: _____

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.

IR/tg

cc:

