

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES**

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2008-25028
Issue Nos.: 1030, 3020
Case No.: [REDACTED]
Hearing Date: August 31, 2011
DHS County: Wayne (82-17)

ADMINISTRATIVE LAW JUDGE: Jan Leventer

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to Michigan Compiled Laws (MCL) 400.9 and 400.37, which govern the administrative hearing and appeal process, and Respondent's request for a hearing. After due notice, a telephone hearing was held on August 31, 2011, in Detroit, MI. Respondent did not appear. [REDACTED], appeared and testified on behalf of the Department of Human Services (DHS).

ISSUE

Whether DHS is entitled to reimbursement from Respondent for overissuance of Family Independence Program (FIP) and Food Assistance Program (FAP) benefits?

FINDINGS OF FACT

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

1. On [REDACTED], Respondent's son, [REDACTED], was born.
2. On [REDACTED] became eighteen years old, and in about [REDACTED] he graduated high school.
3. On August 24, 2007, Respondent applied for FIP and FAP benefits for herself and three children, including her son, [REDACTED].
4. DHS approved FIP and FAP benefits for Respondent and her three children.

5. DHS erred when it included Respondent's son, [REDACTED], as a member of Respondent's family group.
6. DHS' error caused Respondent to receive FIP and FAP amounts higher than those to which Respondent was legally entitled.
7. Due to the DHS error, from September 1, 2007-January 31, 2008, a period of five months, Respondent received FIP and FAP benefits greater than those to which she was legally entitled.
8. On May 29, 2008, DHS issued a Notice of Overissuance, Department and Client Error Information and Repayment Agreement, and Overissuance Summary to Respondent. Respondent failed to sign the Repayment Agreement.
9. On June 11, 2008, Respondent filed a Hearing Request for Overissuance or Recoupment Action with DHS.

CONCLUSIONS OF LAW

FIP was established by the U.S. Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 8 United States Code 601 *et seq.* DHS administers FIP pursuant to MCL 400.10 *et seq.* and Michigan Administrative Code Rules (MACR) 400.3101-400.3131. DHS' policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables (RFT). These manuals are available online at www.michigan.gov/dhs-manuals.

FAP was established by the U.S. Food Stamp Act of 1977 and is implemented by Federal regulations contained in Title 7 of the Code of Federal Regulations. DHS administers FAP pursuant to MCL 400.10 *et seq.* and MACR 400.3001-400.3015. DHS' policies are found in the BAM, BEM and RFT. *Id.*

The DHS manuals contain the policies and procedures DHS officially created for its own use. While the DHS policies and procedures are not laws created by the U.S. Congress or the Michigan Legislature, they constitute legal authority which DHS must follow. The manuals must be consulted in order to see what policies apply in this case. After setting forth what the applicable policies are, an analysis as to how they apply to the facts of this case will be presented.

The events in this case occurred in 2007-2008. At that time, Program Administrative Manual (PAM) and Program Eligibility Manual (PEM), which are earlier manuals, were in effect. PAM and PEM are not available online, but the manual sections relevant to

this case are the same as the current BAM and BEM sections with the same numbers. www.michigan.gov/dhs-manuals.

PAM 700, "Benefit Overissuances," requires DHS to attempt recoupment of all overissuances, regardless of what caused the overissuance.

BENEFIT OVERISSUANCES

DEPARTMENT POLICY

All Programs

When a client group receives more benefits than they are entitled to receive, DHS must attempt to recoup the overissuance (OI). PAM 700, p. 1.

This policy is applicable in this case, and DHS is clearly required to attempt recoupment. At the hearing, DHS submitted monthly budget calculations of the overissuances for the months in question and for both FIP and FAP programs. After reviewing DHS' calculations, it is found that there is no error in the recoupment amounts specified by DHS.

In her Hearing Request, Respondent disputes DHS' recoupment action because she received a letter stating that her son could receive benefits as part of her family group as long as he was in school. Respondent's position is that, essentially, she had a right to rely on the information she was provided at the time.

However, DHS policy at that time, as it is now, is that a child is considered a child only if the child is less than eighteen years old, or if the child is eighteen or nineteen years old, still in high school, and expected to graduate by the age of twenty. PEM 240, "Age." This means that whatever information she relied on was incorrect or incorrectly interpreted. Regardless, the issue in this case is whether an overissuance occurred, and not who or what caused it to occur. There is no evidence to show that FIP and FAP overissuances did not occur, and it is found as fact that they did occur.

In conclusion, based on the above findings of fact and conclusions of law, it is found that DHS' request for an Order permitting a Recoupment Action is GRANTED.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides and determines that DHS' request for an Order allowing this Recoupment Action is GRANTED. All steps taken shall be taken in accordance with DHS policy and procedure.



Jan Leventer
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: September 1, 2011

Date Mailed: September 1, 2011

NOTICE: The law provides that within 60 days from the mailing date of the above hearing Decision the Respondent may appeal it to the circuit court for the county in which he/she resides or has his or her principal place of business in this state, or in the circuit court for Ingham County. Administrative Hearings, on its own motion, or on request of a party within 60 days of the mailing date of this Hearing Decision, may order a rehearing.

JL/pf

cc:

