

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

IN THE MATTER OF:

SOAHR Docket No. 2008-28422 REHD
DHS Req. No: 2008-28334
Case No: [REDACTED]
Load No: [REDACTED]

[REDACTED]
Claimant

RECONSIDERATION DECISION

This matter is before the undersigned Administrative Law Judge (ALJ) pursuant to MCL 24.287(1) and 1993 AACS R 400.919 upon the request of the Claimant.

ISSUE

Did the Administrative Law Judge properly order the Department to initiate a review of Claimant's child support excess payments for the time period April 2006 to September 2007, and issue a reimbursement, if warranted?

FINDINGS OF FACTS

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

1. On June 24, 2008, ALJ Judith Ralston Ellison issued a Hearing Decision in which the ALJ determined that the Department of Human Services (DHS) did not make a proper finding regarding child support payment reimbursement.
2. On September 11, 2008, the State Office of Administrative Hearings and Rules (SOAHR) for the Department of Human Services received a Request for Rehearing/Reconsideration submitted by Claimant.
3. On September 11, 2008, SOAHR granted the Claimant's Request for Rehearing/Reconsideration and issued an Order for Reconsideration.
4. Findings of Fact one through three from the Hearing Decision, mailed on June 24, 2008 are hereby incorporated by reference.

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 Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

Under PEM manual item 255 an FIP recipient “assigns” child support payments to the Department. This is a requirement for receipt of FIP benefits. Assignment is the agreement of the client to give all rights to past, current and future child support paid for a FIP recipient to the state. It occurs when the client completes and signs aa DHS-1171, Assistance Application, **or** an DHS-1459, Interstate Redirection and Assignment of Support, for out-of-state orders. FIP recipients also assign his/her spousal support if it is included in the same order as the child support. The Michigan State Disbursement Unit, sends support payments collected on behalf of dependent children to central office as reimbursement for FIP expenditures for the child.

If the client receives more child support (\$50 is deducted in certified support cases) than the FIP need standard the client is no longer eligible for FIP benefits. PEM 518

In the present case, the Claimant maintained that the Department received \$7,188 in certified child support for the period of April 2006 through September 2007, and paid FIP benefits to the Claimant in the amount of \$2,826 for the same period. Claimant argues that the Department received excess child support and therefore a reimbursement is due. The Administrative Law Judge determined that the Department at the hearing failed to provide sufficient evidence to show how much excess child support was collected. The ALJ ordered the Department to review the child support payment history for the period of April 2006 to September 2007.

Claimant now indicates that the Department reviewed not only the April 2006 to September 2007, period but an additional period prior to April 2006, when Claimant was receiving FIP. The Department concluded that after review of the additional period that no reimbursement was warranted. The Claimant argues that the Department’s review of the time period not specified by the ALJ and was “outside the scope” of the Judge’s hearing decision. The Claimant requested reconsideration of the decision.

Under PAM manual item 600 the Department, AHR or, if none, the client may file a written request for rehearing/reconsideration. The client may request a rehearing/reconsideration when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing, and that could affect the outcome of the original hearing decision.
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion.
- Typographical, mathematical, or other obvious error in the hearing decision that affects the rights of the client.
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The undersigned Administrative Law Judge finds no basis for reconsideration of Judge Ellison's decision of June 24, 2008. Claimant is not arguing that any the above mentioned reasons for a reconsideration or rehearing exists. Claimant is arguing that the Department's implementation of the Judges order for review was in excess of what the Claimant wanted and the Judge ordered. This excess action by the Department **may** be the basis for another hearing but it is not appropriate for a rehearing or reconsideration.

DECISION AND ORDER

This Administrative Law Judge, based on the above findings of fact and conclusion of law, decides there was no basis for reconsideration of Judge Ellison's decision of June 24, 2008.

IT IS THEREFORE ORDERED:

That the Administrative Law Judge's decision mailed June 26, 2008 is UPHELD.

The request for reconsideration/rehearing is hereby dismissed.

/s/
Rhonda Craig
Administrative Law Judge
for Michigan Department of Human Services

[REDACTED]
SOAHR Docket No. 2008-28422 REHD
DHS Req. No: 2008-28334
Reconsideration Decision

Date Signed: May 5, 2009
Date Mailed: May 7, 2009

cc:

[REDACTED]

***** NOTICE *****

The Appellant may appeal this Rehearing Decision to Circuit Court within 30 days of the mailing of this Rehearing Decision.