

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF: [REDACTED],
Claimant

Reg. No: 2009-30774
Issue No: 1032; 3052
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
September 10, 2009
Tuscola County DHS

ADMINISTRATIVE LAW JUDGE: Carmen G. Fahie

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon respondent's request for a hearing. After due notice, an in-person hearing was held on Thursday, September 10, 2009. The respondent personally appeared and testified on her own behalf.

ISSUE

Whether the respondent received an overissuance of benefits in the Food Assistance Program (FAP) and Family Independence Program (FIP) 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) The DHS caseworker had a note that the respondent would provide the department with proof of support as soon as possible based on DHS-232, Worker Documentation Record, dated April 3, 2006. (Department Exhibit 21)

(2) On April 4, 2006, the claimant self-reported that she received child support income from a private company for at least February to March 2006 during a semi-annual review. The department contends that that income was not reported prior to the review.

(3) There was a proof of income in case file from support-kids to prove the income date stamp of August 15, 2006. (Department Exhibit 20)

(4) Subsequently, overissuance budgets were run that resulted in the respondent owing the department \$300 in FIP and \$117 in FAP benefits. The department is unable to collect the FAP overissuance because it is less than \$125 and the respondent's FAP case is closed. (Department Exhibit 7-19)

(5) On July 11, 2009, a recoupment notice was mailed to the respondent. (Department Exhibit 1-5)

(6) On July 27, 2009, the department received a hearing request from the respondent, contesting the department's negative action.

(7) The department agrees, based on the respondent's written documentation of an eligibility notice dated November 8, 2005, that the department had notice of the respondent's child support payment from a private source and subsequently did not budget the support.

(8) The parties have reached an agreed upon settlement to resolve the dispute. The department had prior notice from November 8, 2005 about the prior support so it becomes a department error and not a respondent error per policy found in BAM 700, Benefit Overissuance, for overissuance threshold for FIP and FAP is that department errors overissuance are not

pursued if the estimated OI amount is less than \$500 per program. The claimant received a FIP overissuance of \$300 and a FAP overissuance of \$117, which is below the overissuance threshold and the overissuance will not be pursued.

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

In the present case, the parties have reached an agreed upon settlement to resolve the dispute. The department had prior notice from November 8, 2005 about the prior support so it becomes a department error and not a respondent error per policy found in BAM 700, Benefit Overissuance, for overissuance threshold for FIP and FAP is that department errors overissuance are not pursued if the estimated OI amount is less than \$500 per program. The claimant received

a FIP overissuance of \$300 and a FAP overissuance of \$117, which is below the overissuance threshold and the overissuance will not be pursued.

If the claimant does not agree with the determination, she may file another request for a hearing.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the parties have reached an agreed upon settlement.

The department is ORDERED to remove the overissuance from the respondent's case because the respondent did provide verification of the private support that the department knew on November 8, 2005, which has resulted in a department error and since the amounts are below the overissuance threshold will not be pursued and deleted from the respondent's case record, if it has not already done so.

/s/ _____
Carmen G. Fahie
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: October 8, 2009

Date Mailed: October 8, 2009

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.

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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.

CGF/vmc

cc:

