

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.: 2009-10535  
Issue No.: 1030; 3020  
Case No.: [REDACTED]  
Load No.: [REDACTED]  
Hearing Date:  
May 6, 2009  
Wayne County DHS (17)

ADMINISTRATIVE LAW JUDGE: Colleen M. Mamelka

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Claimant's request for a hearing. After due notice, a telephone hearing was conducted from [REDACTED] on October 20, 2008. The Claimant appeared and testified. Denise Beard appeared on behalf of the Department.

ISSUES

Whether the Department is entitled to recoup a \$345.00 FIP over-issuance and a \$417.00 FAP over-issuance for the months of December 2007 and January 2008 due to the failure to include the Claimant's earnings from employment in the FIP and FAP budgets?

FINDINGS OF FACT

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

1. The Claimant is a FIP and FAP recipient. (Exhibits 1 – 5)
2. In October of 2007, the Claimant secured employment through the Work First! program.
3. The Claimant's case worker did not participate in the hearing process.

4. The Claimant notified her worker of the employment.
5. The Department failed to budget the Claimant's earnings from employment for the months of December 2007 and January 2008.
6. As a result, the Claimant received a \$345.00 FIP over-issuance and a \$417.00 FAP over-issuance for that period. (Exhibits 7 – 11)
7. On May 23, 2008, the Claimant's case was forwarded to a Recoupment Specialist. (Exhibit 12)
8. On November 7, 2008, the Department sent a Notice of Over-issuance and Repayment Agreement to the Claimant. (Exhibits 13 – 16)
9. On November 26, 2008, the Department received the Claimant's written request for a hearing protesting the proposed recoupment action. (Exhibit 17)

#### 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 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, 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"), formally known as the Family Independence Agency, administers the

FAP program pursuant to MCL 400.10, *et seq* and MAC R 400.3001-3015. Departmental policies are found in the PAM, PEM, and PRM.

In this case, the Department seeks recoupment of an over-issuance of FIP and FAP benefits due to the Department's failure to include reported earned income. An over-issuance ("OI") occurs when a client group receives more benefits than they are entitled to receive. PAM 700 A claim is the resulting debt created by the overissuance of benefits. PAM 700 Recoupment is an action to identify and recover a benefit OI. PAM 700 The Department must take reasonable steps to promptly correct any overpayment of public assistance benefits, whether due to department or client error. PAMs 700, 705, 715, and 725 An agency error OI is caused by incorrect actions by DHS, DIT staff, or department processes. PAM 705 In general, agency error OIs are not pursued if OI amount is under \$500.00 per program. PEM 705

In the record presented, the Claimant secured employment through the Jobs, Education, and Training ("JET") program. The Department failed to budget the earned income in the Claimant's FIP and FAP budgets for the months of December 2007 and January 2008. As a result of the foregoing, the Claimant received a \$345.00 FIP over-issuance and a \$417.00 FAP over-issuance due to Department error. In light of the fact that each program over-issuance is less than \$500.00, the Department is not entitled to recoupment. Accordingly, the Department's determination of a FIP and FAP over-issuance is affirmed in part, reversed in part.

#### DECISION AND ORDER

The Administrative Law Judge, based upon findings of fact and conclusions of law, finds that the Department's actions are affirmed in part, reversed in part.

Accordingly, it is ORDERED:

1. The Department's Notice of FIP and FAP over-issuance is AFFIRMED in part, REVERSED in part.

2. The Department's Notice of a \$345.00 FIP over-issuance and a \$417.00 FAP over-issuance for the period from December 2007 through January 2008 is **AFFIRMED**.
3. The Department's Notice finding the FIP and FAP over-issuance was due to client error is **REVERSED**.
4. The over-issuance was due to Department error.
5. The Department shall not recoup the \$345.00 FIP over-issuance and a \$417.00 FAP over-issuance for the period from December 2007 through January 2008 due to policy threshold limits.

/s/  
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Colleen M. Mamelka  
Administrative Law Judge  
for Ismael Ahmed, Director  
Department of Human Services

Date Signed: 05/06/09

Date Mailed: 05/06/09

**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.

CMM/jlg

cc:

