

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

IN THE MATTER OF:

[REDACTED]

Registration. No: 2009-19396
Issue No: 4060
Case No: [REDACTED]
Hearing Date: July 6, 2011
Manistee County DHS

Administrative Law Judge: Mark A. Meyer

HEARING DECISION

This matter is before the undersigned Administrative Law Judge in accordance with 7 CFR 273.18, 45 CFR 233.20(a)(13), MCL 400.9, MCL 400.37, MCL 400.43(a), MCL 24.201, *et seq.*, and 1999 AC, R 400.941, upon a hearing request by the Department of Human Services (the Department) to establish a debt based on an overissuance of benefits to Respondent. Following due notice mailed to Respondent, a hearing was held on July 6, 2011. Respondent appeared at hearing and provided testimony. The Department of Human Services (the Department) was represented by agency personnel.

ISSUE

In dispute was whether Respondent received an overissuance of Family Independence Program (FIP) benefits, which entitles the Department to recoupment.

FINDINGS OF FACT

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

1. At all times relevant to this matter, Respondent was receiving FIP benefits. (Department's Exhibits D-2; D-3; D-4; D-5; D-6; D-8; D-9.)
2. In March 2007, Claimant received child support in the amount of [REDACTED]. (Department's Exhibits D-1; D-3.)
3. In May 2007, Claimant received child support in the amount of [REDACTED]. (Department's Exhibits D-1; D-4.)
4. In June 2007, Claimant received child support in the amount of [REDACTED]. (Department's Exhibits D-1; D-5.)

5. In July 2007, Claimant received child support in the amount of [REDACTED]. (Department's Exhibits D-1; D-6.)
6. The total amount of child support received by Claimant for the period March 2007 through July 2007 was [REDACTED]. (Department's Exhibit D-1.)
7. None of the child support received by Claimant in this matter was forwarded to the Department; it was retained by Claimant. (Department representative's hearing testimony, July 6, 2011; Claimant's hearing testimony, July 6, 2011.)
8. In each of the months March through July 2007, Claimant also received FIP benefits in the amount of [REDACTED] (totaling [REDACTED]). (Department's Exhibits D-2; D-3; D-4; D-5; D-6; D-8; D-9.)
9. After including the amounts of child support in Claimant's FIP budget, it was determined that she was only entitled to receive FIP benefits of [REDACTED] in March 2007, [REDACTED] in May 2007, [REDACTED] in June 2007, and [REDACTED] in July 2007 (for a total of [REDACTED]). (Department's Exhibits D-2; D-3; D-4; D-5; D-6.)
10. With the inclusion of the child support payments, the Department determined that Claimant was overissued FIP benefits totaling [REDACTED]. (Department's Exhibit D-2.)
11. For the month of August 2007, Claimant received [REDACTED] less than the amount to which she was entitled. (Department's Exhibits D-2; D-8.)
12. The total amount of FIP overissuance in this matter was [REDACTED] [REDACTED]. (Department's hearing summary, dated January 22, 2009; Department's Exhibit D-2.)
13. On January 12, 2009, the Department issued a notice of overissuance to Claimant informing her that, due to client error, she was responsible for repaying an amount of [REDACTED]. (Department's Exhibit D-7.) The agency's computation of the [REDACTED] overissuance amount was based on the inclusion of determined overissuances for September 2007 and October 2007. (Department's Exhibits D-2; D-8.)
14. From the Department's notice of recoupment action, Claimant filed a request for hearing. (Claimant's hearing request, dated January 21, 2009.)

CONCLUSIONS OF LAW

The FIP was established under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, 8 USC 601, *et seq.* The Department administers the FIP in accordance with MCL 400.10, *et seq.*, and Rules 400.3101 through 400.3131. The FIP replaced the Aid to Dependent Children (ADC) program, effective October 1, 1996. Agency policies pertaining to the FIP are found in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and program reference manuals. The program's purpose is to provide temporary cash assistance to support a family's movement to self-sufficiency. BEM 230A, p. 1.

In determining FIP eligibility or benefit level, the entire amount of countable and available income – both earned and unearned – is used. BEM 505, p. 2. Child support income is a component of determining eligibility for FIP benefits.¹ See BEM 518.

Clients receiving cash assistance are responsible for reporting changes in circumstances that have the potential for affecting eligibility or benefit amount. BAM 105, p. 7. This includes the proper and correct reporting of income – both earned and unearned – including child support payments. BAM 105, p. 7.

Child support is money paid by an absent parent for the living expenses of a child. BEM 503, p. 5. Court-ordered child support may be either certified or direct. Certified support is retained by the State due to the child's FIP activity. Direct support is paid to the client. BEM 503, p. 5. Certified child support means court-ordered payments the Michigan State Disbursement Unit (MiSDU) sends to the Department due to a child's receipt of assistance benefits. BEM 503, p. 5. Direct child support are payments an individual receives directly from the absent parent or MiSDU. In general, the Department counts the total amount of direct support as unearned income. BEM 503, p. 7.

Here, during the period March 2007 through July 2007, Claimant directly received child support payments totaling [REDACTED]. She retained the entire amount. During this same period, Claimant also received FIP benefits.

When the Department is made aware of, or the client reports, a change in income that will affect eligibility or benefit level, a new FIP budget must be completed. BEM 505, p. 7.

At some point in the present matter, whether informed by Claimant, the Office of Child Support (OCS), or by other means, the Department was made aware of the child support payments received by Claimant. When those payments, the amounts of which

¹ All rights to past, current and future court-ordered child support paid for a period of time a child receives Family Independence Program (FIP) must be assigned to the state as a condition of FIP eligibility. Bridges Eligibility Manual (BEM) 255, p. 2.

were uncontested, were included in Claimant's FIP budget, it was determined that she received an overissuance of benefits during the period March 2007 through July 2007.

An overissuance is the amount of benefits issued to a client in excess of what he or she was entitled to receive. BAM 700, p. 1; see also BAM 705, p. 5. When this occurs, the Department must attempt to recoup the overissuance. BAM 700, p. 1.

There are agency errors and client errors that result in overissuances. An agency error occurs when incorrect action is taken by the Department. BAM 700, p. 3; BAM 705, p. 1. For the time period in issue, the threshold for pursuing recoupment of the overissuance was [REDACTED] or more BAM 700, p. 4.² A client error occurs when the client received more benefits than he or she was entitled to because the client provided incorrect or incomplete information to the Department. BAM 700, p. 5. Again, for the time period in issue, the Department did not seek recoupment of an overissuance caused by client error unless the amount was [REDACTED] or more.³ BAM 700, p. 7.

Generally, when a client is currently in an active FIP benefits case, the Department will seek to recoup the determined overissuance from those benefits. See BAM 705, pp. 8-9; BAM 715, pp. 8-9. In those situations, it is the client who must file a timely request for hearing to contest the recoupment action. BAM 705, pp. 8-9; BAM 715, pp. 8-9. But, when an overissuance is determined and the client is not currently within an active benefits case, the Department must request a hearing to establish the outstanding debt. See BAM 705, p. 9; BAM 715, p. 9. The agency did so here.

Overissuances on active programs are repaid by:

- Lump sum cash payments.
- Monthly cash payments (when court ordered).
- Administrative recoupment (benefit reduction).

[BAM 725, p. 4.]

Over issuance balances on inactive cases must be repaid by lump sum or monthly cash payments unless collection is suspended. BAM 725, p. 7.

Repayment of an overissuance is the responsibility of:

- Anyone who was an eligible, disqualified, or other adult in the program group at the time the overissuance occurred.

² The recoupment threshold for an overissuance due to either Department of Human Services (Department) or client error was lowered to [REDACTED] or more, effective August 1, 2008. Bridges Administrative Manual (BAM) 700, pp 4, 7; BAM 705, p. 1.

³ See fn 2.

- A Food Assistance Program (FAP) authorized representative if they had any part in creating the FAP overissuance. [BAM 725, p 1.]

The Department will attempt to collect an overissuance from all adults who were a member of the benefits case. BAM 725, p. 1.

Here, the Department provided sufficient and credible evidence establishing that Claimant received an overissuance of FIP benefits for the period March 2007 through July 2007, in the amount of [REDACTED].⁴ There was no evidence presented by either party indicating that the agency's overissuance computation was in error, incorrect, or otherwise improper.⁵

Claimant signed a benefits application (DHS-1170) on July 25, 2006. This document informed her of the following:

I understand that, as a condition of eligibility for the [FIP], I am assigning to the [Department] any rights to support I may have from another person for myself or any person for whom I am applying or receiving assistance. This assignment includes rights to present and future support, as well as support owed to me from past periods. Such payments will be used to reimburse the [D]epartment up to the amount of assistance granted. [Department's Exhibit D-13.]

Michigan law presumes that one who signs a written document is aware of the nature of the document and understands its contents. See, e.g., *McKinstry v Valley OB-Gyn Clinic, PC*, 428 Mich 167, 184; 405 NW2d 88 (1987).

Therefore, Claimant was aware, or reasonably should have been aware, of her assignment of any rights to child support payments to the Department for use in reimbursing the agency for FIP benefits she received. At the very least, Claimant was required to report those payments to the Department. BAM 105, p. 7. Had she timely done so, it may be reasonably concluded that an overissuance of FIP benefits would not have occurred.

⁴ According to the Department, Claimant was granted a new FIP certification, effective August 1, 2007. The agency therefore conceded that the FIP benefits overissuance after that date, totaling [REDACTED], was under the then-current [REDACTED] or more threshold for recoupment action.

⁵ It is noted that Claimant also received an overissuance of Food Assistance Program (FAP) benefits during the period June 2007 through October 2007. The Department admitted, however, that the cause of the overissuance was agency error and that the amount was under the [REDACTED] threshold in effect at that time. See Department's Exhibit D-2.

According to Claimant, however, she informed her caseworker that she was receiving child support payments, albeit irregularly, and was told to keep them. If this was, in fact, the case, the overissuance of FIP benefits in this matter was due to agency error. If this was not the case, and Claimant merely failed to inform the Department that she was receiving child support payments during the time period in issue, client error was the cause of the over issuance. But, under either circumstance, the Department was required to recoup the amount of benefits to which Claimant was not entitled. BAM 700, p. 1.

DECISION AND ORDER

Based on the above findings of fact and conclusions of law, the Administrative Law Judge decides that Respondent received an overissuance of FIP benefits for the time period March 2007 through July 2007.

Therefore, the Department is entitled to recoup the FIP overissuance from Respondent, in the amount of [REDACTED].

It is SO ORDERED.

/s/ _____
Mark A. Meyer
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: July 19, 2011

Date Mailed: July 20, 2011

NOTICE: Respondent may appeal this decision and order within 60 days of the above mailing date. The appeal may be made to the circuit court for the county in which Respondent 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 above mailing date, may order a rehearing.

MAM/sc

cc: [REDACTED]

