

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

██████████
Claimant

Reg. No.: 2010-25972
Issue No.: 1030, 3020
Case No.: ██████████
Load No.: ██████████
Hearing Date:
June 28, 2010
Wayne County DHS (55)

ADMINISTRATIVE LAW JUDGE: Jonathan W. Owens

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon Claimant's request for a hearing. After due notice, a hearing was held on June 28, 2010. Claimant appeared and testified.

ISSUE

Did the Department properly determine the Claimant had received an over-issuance of Food Assistance Program (FAP) and Family Independence Program (FIP) benefits?

FINDINGS OF FACT

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

1. On July 7, 2008 the Claimant's only child was removed from her home.
2. The Department initiated case closure of the Claimant's FIP and a reduction in FAP based upon the group composition change.

3. The Claimant requested a timely hearing and requested benefits continue until a hearing.
4. On August 26, 2009 the Claimant withdrew her hearing request.
5. On January 29, 2010 the Department determined an over-issuance in benefits had occurred specifically \$5261 in FIP and \$1958 in FAP benefits.
6. On February 2, 2010 the Claimant requested a hearing regarding the Department's attempt to recoup.

CONCLUSIONS OF LAW

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) 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).

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).

In the present case, the Claimant requested a hearing regarding the over-issuance of FIP and FAP benefits. The Claimant testified her son was in fact removed from her home on June 23, 2008. The Claimant requested a hearing in 2008 to prevent the closure of her FIP case and the pending reduction in FAP benefits. The Department properly removed the negative actions awaiting a hearing. The Claimant withdrew her request for hearing on August 26, 2009. By the Claimant withdrawing her hearing request she formerly agreed with the original proposed decision made by the Department to close her FIP case and reduce her FAP benefits.

In part, the policies provide:

BENEFIT OVERISSUANCES: BAM 700, p. 1

DEPARTMENT POLICY

All Programs

When a customer group receives more benefits than they are entitled to receive, the department must attempt to recoup the over issuance (OI).

The Automated Recoupment System (ARS) is the part of CIMS that tracks all FIP, SDA and FAP OIs and payments, issues automated collection notices and triggers automated benefit reductions for active programs.

An over issuance (OI) is the amount of benefits issued to the customer group in excess of what they were eligible to receive.

Over issuance Type identifies the cause of an over issuance.

Recoupment is a department action to identify and recover a benefit over issuance. BAM 700, p.1.

PREVENTION OF OVERISSUANCES

All Programs

The department must inform customers of their reporting responsibilities and act on the information reported within the standard of promptness.

During eligibility determination and while the case is active, customers are repeatedly reminded of reporting responsibilities, including:

- acknowledgments on the application form, and
- your explanation at application/re-determination interviews, and
- customer notices and program pamphlets.

The department must prevent OIs by following BAM 105 requirements and by informing the customer or authorized representative of the following:

- Applicants and recipients are required by law to give complete and accurate information about their circumstances.
- Applicants and recipients are required by law to promptly notify the department of any changes in circumstances within 10 days.
- Incorrect, late reported or omitted information causing an OI can result in cash repayment or benefit reduction.
- A timely hearing request can delete a proposed benefit reduction. If the department is upheld or the customer fails to appear at the hearing, the customer must repay the OI.

Record on the application the customer's comments and/or questions about the above responsibilities. BAM 700, p.2.

After reviewing the documents, this Administrative Law Judge finds the Department properly determined the amount of benefits to recoup from the Claimant.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department of Human Services was acting in

compliance with Department policy when it determined the Claimant received excess benefits from the FIP and FAP program.

Accordingly, the Department's decision is UPHeld.



Jonathan W. Owens
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 07/14/2010

Date Mailed: 07/14/2010

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 60 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt 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.

JO/cjp

cc:

