

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: 2010-11074
Issue No: 1030, 3052
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
July 29, 2010
Van Buren County DHS

ADMINISTRATIVE LAW JUDGE: Kevin Scully

HEARING DECISION

This matter is before the undersigned Administrative Law Judge by authority of MCL 400.9 and MCL 400.37. Claimant's request for a hearing was received on November 11, 2009. After due notice, a telephone hearing was held on Thursday, July 29, 2010.

ISSUE

Whether the Department of Human Services (Department) is entitled to recoup an overissuance 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 material fact:

- (1) The Claimant is a FAP and FIP recipient.
- (2) The Claimant notified the Department that she was starting new employment on June 22, 2009. Department Exhibit 3.

(3) On August 19, 2009, the Department sent the Claimant a Redetermination form with a due date of September 10, 2009. The Claimant returned this form and reported her income to the Department as required. Department Exhibit 4.

(4) For the month of August 2009, the Claimant received monthly earned income in the gross monthly amount of [REDACTED]. Department Exhibit 9.

(5) For the month of August 2009, the Claimant received monthly FIP benefits in the gross monthly amount of [REDACTED]. Department Exhibit 9.

(6) For the month of August 2009, the Claimant did not report any dependent care, medical, child support, or housing expenses. Department Exhibit 9.

(7) On October 31, 2009, the Department determined that due to department error, the Claimant received an overissuance of FAP benefits totaling [REDACTED]. Department Exhibit 6.

(8) On October 31, 2009, the Department determined that due to department error, the Claimant received an overissuance of FIP benefits totaling [REDACTED]. Department Exhibit 5.

(9) The Department received the Claimant's request for a hearing on November 11, 2009, protesting the Department's recoupment action.

CONCLUSIONS OF LAW

The Food Assistance Program (FAP) (formerly known as the Food Stamp 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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), Reference Table Manual (RFT), and the Bridges Reference Manual (BRM).

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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), Reference Table Manual (RFT), and the Bridges Reference Manual (BRM).

An overissuance is the amount of benefits issued to the client group in excess of what they were eligible to receive. BAM 705. The amount of the overissuance is the amount of benefits the group actually received minus the amount the group was eligible to receive. BAM 720. When a client group receives more benefits than they are entitled to receive, the Department must attempt to recoup the overissuance. BAM 700.

Department errors are caused by incorrect actions by the Department. BAM 705. Department error overissuances are not pursued if the estimated overissuance is less than \$125 per program. BAM 700. Client errors occur when the customer gave incorrect or incomplete information to the Department. Client errors are not established if the overissuance is less than \$125 unless the client group is active for the overissuance program, or the overissuance is a result of a quality control audit finding. BAM 700.

The Family Independence Program (FIP) is temporary assistance to families in need. Recipients of FIP strive for self-sufficiency as required in their Family Self-Sufficiency Plan (FSSP). When the family has successfully gained employment and has income that exceeds the FIP eligibility limit, the department offers Extended FIP (EFIP) to help families transition to self-sufficiency. This extends the family's eligibility for supportive programs and is required by

MCL 400.57s as a critical part of Michigan's plan to meet federal participation requirements and maintain TANF funding. Families receive EFIP for up to six months, with a grant of \$10, when loss of FIP eligibility relates to income from employment of a FIP program group member. BEM 518.

The Claimant was approved for FAP and FIP benefits when she reported to the Department that she had started new employment. Due to Department error, this employment was not used to evaluate the Claimant's eligibility for FAP and FIP benefits.

The Department completed a FAP budget for August of 2009. The Claimant received monthly earned income in the gross monthly amount of [REDACTED], an amount that the Claimant does not dispute. The Claimant received FIP benefits in the gross monthly amount of [REDACTED] which is considered unearned unemployment for FAP budgeting purposes. The Claimant's total income of [REDACTED] is reduced by a 20% earned income deduction and a [REDACTED] standard deduction to determine the Claimant's adjusted gross income of [REDACTED].

The Claimant's net income is the same was her adjusted gross income because the Claimant did not claim any dependent care, medical, child support, or housing expenses. A claimant with a group size of two and a net income of [REDACTED] is entitled to a FAP allotment of [REDACTED]. RFT 260. Due to Department error, the Claimant was instead issued a FAP allotment of [REDACTED]. The Department has established that it acted in accordance when it determined it is entitled to recoup a FAP overissuance of [REDACTED].

The Department completed a FIP budget for August of 2009. The Claimant received monthly earned income in the gross monthly amount of [REDACTED], and amount that the Claimant does not dispute. This amount is reduced by a [REDACTED] standard deduction, and then an additional 20% earned income deduction to determine the Claimant's net earned income of [REDACTED].

The Claimant's net income of [REDACTED] exceeds the FIP income limit for a group of two, which is [REDACTED]. Therefore the Claimant was not eligible for FIP benefits. Since the Claimant's ineligibility was caused by income from the employment of a FIP program group member, the Claimant was eligible to receive a monthly EFIP benefit of [REDACTED]. Due to Department error, the Claimant received a monthly FIP benefit of [REDACTED]. Due to the Department's error, the Claimant received an additional overissuance of [REDACTED] for September, October, and November of 2009. The Department has established that it acted in accordance when it determined it is entitled to recoup a FIP overissuance of [REDACTED].

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department is entitled to recoup a FAP overissuance of [REDACTED], and a FIP overissuance of [REDACTED].

The Department's recoupment action for overissued FAP and FIP benefits is **AFFIRMED**. It is **SO ORDERED**.

/s/ _____
Kevin Scully
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: August 2, 2010

Date Mailed: August 3, 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.

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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.

KS/vc

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