

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 20300
Issue No.: 1030
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
June 24, 2010
Wayne County DHS (19)

ADMINISTRATIVE LAW JUDGE: Jeanne M. VanderHeide

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 Detroit, Michigan on June 24, 2010. The Claimant appeared and testified at the hearing. [REDACTED], FIM and [REDACTED], JET Worker, appeared on behalf of the Department.

ISSUE

Whether the Department is entitled to recoup a Family Independence Assistance Program (FIP) benefit over-issuance for the period September 1, 2009 through January 31, 2010 due to the Department's failure to add employment income to the budget?

FINDINGS OF FACT

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

1. Claimant applied for FIP benefits on 7/27/09.

2. Claimant started working on September 28, 2009 making \$7.90/hour, 40 hours per week. Claimant reported the change in income to the Department on 9/30/09 through a wage verification signed by the employer. (Exhibit 1, pp. 3-4).
3. On 1/5/10, Claimant's FIP benefits were processed and approved in the amount of \$492.00/month. Claimant was issued a supplement for \$492.00 per month for September, 2009 through January, 2010.
4. On 1/8/10, Claimant underwent a redetermination on her FAP case at which point the Department realized that Claimant had been working. (Exhibit 1, p. 5).
5. The Department is claiming a \$1,446.00 over issuance for FIP for September, 2009 through January, 2010.
6. The Department sent a Notice of Over-issuance to Claimant on January 14, 2010. (Exhibit 1, p. 1). Budgets are attached as Exhibit 2.
7. On January 25, 2010, the Department received the Claimant's written request for a hearing protesting the proposed recoupment action.
8. Claimant began receiving \$10.00 EFIP as of February, 2010.

CONCLUSIONS OF LAW

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. 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. Departmental policies are found in the Bridges Administrative Manual (“BAM”), the Bridges Eligibility Manual (“BEM”), and the Reference Tables (“RFT”).

In this case, the Department seeks recoupment of an over-issuance of FAP and FIP benefits due to the Department’s failure to consider Claimant’s income in the eligibility determination. An over-issuance (“OI”) occurs when a client group receives more benefits than they are entitled to receive. BAM 700, p. 1. A claim is the resulting debt created by the overissuance of benefits (OI). Id. Recoupment is an action to identify and recover a benefit. Id. The Department must take reasonable steps to promptly correct any overpayment of public assistance benefits, whether due to department or client error. BAMs 700, 705, 715, and 725. An agency error OI is caused by incorrect actions by DHS, DIT staff, or department processes. BAM 705, p. 1. Within 90 days of determining that an overissuance occurred, the Department must obtain all evidence needed to establish the overissuance. BAM 700, p. 9.

For changes reported timely (within 10 days), Bridges will reflect the change the first month that begins at least 10 days after the change is reported if administratively possible. Depending on the timing of the reported change and timely notice requirements, some benefits will be adjusted in the first month after the change is reported; others in the second month after the change is reported. BEM 515, p. 2. Bridges provides the following example:

On July 24, the group reports that a member left the group on July 17. (Reported timely.) The change results in a grant decrease which you process on July 28 to affect September benefits. (Affect second month after change is reported due to timely notice requirements.)

BEM 515, p. 3.

A request for public assistance may be in person, by mail, telephone or through by an internet application. BAM 110, p. 1. Clients must complete and sign public assistance applications. BAM 115, p. 1. An application is incomplete until enough information is provided to determine eligibility. BAM 115, p. 3. The Department is required to process each application within a specified time period. This standard of promptness begins the date the department receives an application/filing form, with minimum required information. BAM 115, p. 11. For FIP, the Department is required to approve or deny the application and mail the client a notice within 45 days. BAM 115, p. 11.

Based on the evidence and testimony presented on the record, the undersigned finds that there was an overissuance of benefits caused by Department error. Furthermore, there was no over-issuance before November, 2009 as follows.

In the present case, the Claimant applied for FIP benefits on 7/27/09. The case should have been processed by early September by the applicable standard of promptness. Because it was processed late, the Department argues that the change requirements for benefits do not apply. However, the undersigned does not find any support for this argument in the regulations. Claimant properly reported the change at the end of September, 2009. Had the FIP benefits been properly processed, the change would have been entered into the system by October, 2009. Furthermore, because Claimant timely reported, FIP benefits would not have decreased until the first month 10 days after the change is reported, or November, 2009.

A. FIP

The eligible group must be in financial need to receive benefits. Need is determined to exist when budgetable income is less than the payment standard established by the department. Program, living arrangement, grantee status and eligible group size are variables that affect the

payment standard. PEM 515, p. 1. Specifically, financial need exists when the eligible group passes both the “Deficit Test” and the “Child Support Income Test.” To perform the deficit test, subtract the program group’s budgetable income from the eligible group’s payment standard (BEM 515) for the benefit month. To meet the child support income test, the FIP group’s countable income plus the amount of certified support (or amount of support to be certified) must be less than the eligible group’s payment standard. BEM 518.

The Family Independence Program (FIP) is temporary assistance to families in need. 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. BEM 519, p. 1. 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. Persons in this stage of FIP eligibility are called Extended FIP (EFIP) recipients. EFIP recipients continue to be categorically eligible for other programs such as Medicaid, Child Development and Care (CDC), Direct Support Services (DSS) and energy assistance. Families eligible for Transitional Medicaid (TMA) receive TMA and EFIP simultaneously. Id. EFIP eligibility continues until the end of the six-month EFIP period. BEM 519, p. 4.

The payment standard for a group of three, such as the instant case, is \$492.00. RFT 210. Claimant reported earning \$7.90/hour 40 hours per week which prospectively is \$1369 per month since 9/28/09. Claimant’s income, under either the “Deficit Test” or the “Child Support Income Test” is over \$492.00. Claimant, therefore, does not qualify for FIP benefits effective 11/1/09. However, Claimant would qualify for EFIP benefits for 11/1/09 – 4/1/10 of \$10.00 per month. Accordingly, the total amount of recoupment would be \$482.00 for each month of November, 2009 through January, 2010 or a total of \$1446.00.

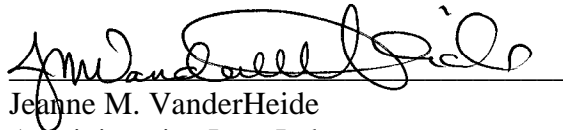
Accordingly, based on the above reference findings of fact and conclusions of law, the Department's FIP recoupment action is partially REVERSED.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department's determination of FIP over-issuance and recoupment for the time period of 11/1/09 – 12/31/09 are partially upheld.

Accordingly, it is ORDERED:

1. The OI and recoupment for FIP benefit from 9/09 – 1/10 is REVERSED.
2. Claimant was over issued FIP benefits for November, 2009; December, 2009 and January, 2010.
3. The Department is entitled to a FIP recoupment of \$482.00 per month for the November, 2009 – January, 2010 over issuance, or a total of \$1,446.00, less any monies already recouped by the Department.



Jeanne M. VanderHeide
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 07/01/2010

Date Mailed: 07/01/2010

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 90 days of the filing of the original request.

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.

JV/cjp

2010 20300/JV

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