

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: 2010-26279

Issue No: 1030

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

August 18, 2010

Clare County DHS

ADMINISTRATIVE LAW JUDGE: Gary F. Heisler

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 August 18, 2010. Claimant appeared and testified.

ISSUE

Did the Department of Human Services over-issue Claimant \$ [REDACTED] of Family Independence Program (FIP) benefits during the period July 1, 2010 through September 30, 2010 which the Department is entitled to recoup?

FINDINGS OF FACT

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

(1) Claimant was an ongoing recipient of Family Independence Program (FIP) benefits. Claimant was temporarily deferred from participation in the Michigan Works Agency/Jobs Education and Training Program (JET).

(2) On June 1, 2009, Claimant was sent a Verification Checklist (DHS Form 3503) requesting medical releases and information. The documents were due by June 9, 2009.

(3) On August 19, 2009, Claimant was sent a Redetermination Form (DHS-1010).

(4) On September 1, 2009, the Department received the Redetermination Form (DHS-1010). On the form Claimant indicated he was claiming disability. Claimant was given medical forms to return to the Department.

(5) On October 23, 2009, Claimant was sent a Notice of Case Action (DHS-1605) and two separate Notices of Over-issuance. One of the Over-issuance notices was for the period between 7/1/10 – 8/31/10. The other was for the period between 8/1/10 and 9/30/10.

(6) On October 30, 2010, Claimant submitted requests for hearing on both the Notices of Over-issuance and the Notice of Case Action (DHS-1605).

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 (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) and the Program Reference Manual (PRM).

In this case the primary concern of both parties was the over-issuance. The evidence in the hearing packet did not sufficiently address any over-issuance issue. The Department representatives had difficulty articulating exactly what the Department's action was and a basis for the action. After consulting information not in the hearing record they asserted that the over-

issuance notices were for Family Independence Program (FIP) benefits Claimant had received and that he was not eligible for the benefits because he had not provided verification for a continuation of his medical deferral nor participated in the Michigan Works Agency/Jobs Education and Training Program (JET). It appears the BRIDGES computer program generated the over-issuance notices due to information entered after the fact.

In an Administrative Law Hearing on Department of Human Services' issues the Department has the initial burden to show their action is correct in accordance with law and policy. The Department policies regarding participation in MWA/JET programs has a well developed procedure for dealing with unsubstantiated claims of medical inability to participate. Those procedures entail assigning the benefit recipient to the program and sanctioning their Family Independence Program (FIP) case if they fail or refuse to participate. BEM 233A does state that depending on the case situation, failure to participate in employment or self-sufficiency-related activities could result in a penalty of ineligibility (denial or termination of FIP with no minimum penalty period). However, there is no further explanation of what situation would result in a retroactively applied, blanket ineligibility. Neither is there guidance on how the undefined situation would be processed.

There is no Department policy which lends itself to an interpretation that Claimant can be retroactively determined ineligible under these circumstances.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the Department of Human Services did not over-issue Claimant § [REDACTED] of Family Independence Program (FIP) benefits during the period July 1, 2010 through September 30, 2010 which the Department is entitled to recoup.

It is ORDERED that the actions of the Department of Human Services, in this matter, are REVERSED.

/s/

Gary F. Heisler
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: August 24, 2010

Date Mailed: August 26, 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.

GFH/alc

cc:

