

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: 2010-33142

Issue No: 1038

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

August 12, 2010

Gratiot 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 December 21, 2009. After due notice, a telephone hearing was held on Thursday, August 12, 2010.

ISSUE

Whether the Department of Human Services (Department) properly determined the Claimant had received an overissuance of 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 was a FIP recipient from May 1, 2009, through September 30, 2009.
- (2) The Claimant notified the Department that she had started new employment on March 20, 2009. Department Exhibit 1.

(3) The Claimant receives monthly earned income in the gross monthly amount of [REDACTED]. Department Exhibit 3.

(4) On October 21, 2009, the Department notified the Claimant that she had received on overissuance of FIP benefits totaling [REDACTED]

(5) The Department received the Claimant's request for a hearing on December 21, 2009, protesting the Department's recoupment of FIP benefits.

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), Reference Table Manual (RFT), and the Bridges Reference Manual (BRM).

Clients must cooperate with the local office in determining initial and ongoing eligibility. This includes the completion of necessary forms. BAM 105, p. 5. Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. BAM 130, p. 1. Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level when it is required by policy, required as a local office option, or information regarding an eligibility factor is unclear, inconsistent, incomplete, or contradictory. BAM 130, p. 1. The Department uses documents, collateral contacts, or home calls to verify information. BAM 130, p. 1. A collateral contact is a direct contact with a person, organization, or agency to verify information from the client. BAM 130,

p. 2. When documentation is not available, or clarification is needed, collateral contact may be necessary. BAM 130.

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 Claimant was receiving FIP benefits as a group of three when she reported to the Department that she had started new employment on March 20, 2009. Due to Department error, this earned income was not used to consider her eligibility for FIP benefits. When the Department's error was discovered, the Department reevaluated her eligibility for FIP benefits, and notified her that she had received a FIP overissuance totaling [REDACTED].

The Claimant received monthly earned income in the gross monthly amount of [REDACTED]. The Claimant's net earned income of [REDACTED] was determined by reducing her gross income by the \$200 standard deduction and a 20% earned income deduction. The payment standard for a group of three is \$492, and therefore the Claimant was not eligible to receive FIP benefits.

Families receive an Extended FIP grant of [REDACTED] for up to six months, when loss of FIP eligibility relates to income from employment of a FIP program group member. BEM 519.

The Claimant received [REDACTED] in monthly FIP benefits from May 1, 2009, through September 30, 2009, when she was entitled to only receive the Extended FIP grant of [REDACTED], which created an overissuance of FIP benefits totaling [REDACTED].

The Claimant did not dispute the income figures used by the Department, but argued that she was being punished even though she had not done anything wrong.

While it is true that the overissuance of FIP benefits was caused by Department error, the claimant's grievance centers on dissatisfaction with the department's current policy. The claimant's request is not within the scope of authority delegated to this Administrative Law Judge. Administrative Law Judges have no authority to make decisions on constitutional grounds, overrule statutes, overrule promulgated regulations, or make exceptions to the department policy set out in the program manuals. Furthermore, administrative adjudication is an exercise of executive power rather than judicial power, and restricts the granting of equitable remedies. *Michigan Mutual Liability Co. v Baker*, 295 Mich 237; 294 NW 168 (1940).

The Department established that it acted in accordance with policy when it determined that the Claimant received a FIP overissuance totaling [REDACTED].

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department acted in accordance with policy in determining that the Claimant received a FIP overissuance totaling [REDACTED].

The Department's recoupment of the FIP overissuance is AFFIRMED. It is SO ORDERED.

/s/

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

Date Signed: August 20, 2010

Date Mailed: August 23, 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.

KS/vc

cc:

