IN THE MATTER OF:

████████████
████████████

Reg. No.:   20105084
Issue No.:   1030
Case No.:   ████████
Load No.:
Hearing Date: October 11, 2010
Oakland County DHS

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

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 held on October 11, 2010. The Claimant appeared and testified. ████████, FIM appeared on behalf of the Department.

ISSUE

Was the Department correct in determining an overissuance of Claimant's FIP benefits and for seeking recoupment?

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 FIP benefits.

(2)   On December 29, 2009 the Department determined that overissuance occurred due to Department error in September 2009. The agency failed to budget income timely.

(3)   Claimant received overissuances in the amount of $482 between September 1, 2009 and September 30, 2009 under the FIP program due to Agency error.

(4)   Claimant requested a hearing on April 1, 2010 contesting the overissuance determination and recoupment of 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 Dependant 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).

When a client group receives more benefits than they are entitled to receive, DHS must attempt to recoup the over issuance (OI) if the overissuance is greater than $125. BPB 2010-005. The amount of the OI is the amount of benefits the group or provider actually received minus the amount the group was eligible to receive. BAM 720, p. 6.

In the present case, Claimant received $492 in FIP benefits in September 2009 when she was only entitled to $10 due to agency error. The agency failed to budget income timely. Claimant questioned the fairness of recouping benefits for agency error. Department policy is very clear that overissuances over $125 are recouped even when it is result of agency error. BAM 720. Therefore the Department's determination of overissuance and imposition of recoupment is proper and correct.

The Department raised issues with regard to other alleged overissuances but failed to provide adequate proof that overissuances occurred. The only notice of overissuance provided by the Department at hearing was for September 2009.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that Claimant received overissuances in FIP program benefits of $482 due to agency error, and it is ORDERED that the Department's decision in this regard be and is hereby AFFIRMED.

/s/ _____

Aaron McClintic
Administrative Law Judge
For Ismael Ahmed, Director
Department of Human Services

Date Signed: <u>October 13, 2010</u>

Date Mailed: <u>October 13, 2010</u>

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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.

AM/hw

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