

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2010-53221
Issue No.: 1030
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: October 4, 2010
Oakland County DHS (4)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 4, 2010. The claimant appeared and testified. [REDACTED] FIM appeared on behalf of the Department.

ISSUE

Whether the Department is entitled to recoup an over issuance of Family Independence (cash assistance) 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 timely reported a change in her group composition to the Department. The claimant currently receives FIP and FAP assistance from the department.
2. The department is presently recouping \$14.92 biweekly from the claimant's FIP cash assistance benefits.
3. The department admitted in the hearing that it committed an agency error when it computed the claimant's FIP budget without including the claimant's child's father's income. Department had received a verification of employment from the claimant's boyfriend's employer but did not timely make changes to the FIP budget. Exhibit 4.

4. The verification of employment provided by the employer indicated the claimant's child's father receive \$200 a week in employment income. The department properly computed the income to be \$860 per month based on BEM 505 page 6 -- 7. Exhibit 4.
5. The department recalculated the claimant's budget for cash assistance correctly and found that she was not entitled to receive benefits beginning September 1, 2009 through December 30, 2009. The claimant was overissued cash assistance in the amount of \$492 per month for a total of \$1968. Exhibit 4 and 5.
6. At the hearing the department admitted that it had not properly calculated the FAP over issuance and that the claimant was entitled to FAP supplements. The claimant is entitled to FAP supplements of \$125 plus an additional \$8 dollars in FAP supplements. At the hearing the department agreed that the claimant had not been over issued FAP benefits.
7. The claimant currently owes a balance of \$1453.28. The department has recouped monthly from the claimant's cash assistance the sum of \$14.92 biweekly to recoup the FIP over issuance.
8. The department was entitled to recoup the over issuance because the claimant did not file her hearing request within the 12 day of the Notice of over Issuance. The claimant's hearing request was not timely to preserve her continued FIP cash assistance.
9. The department issued a Notice of Over Issuance of benefits to the claimant on February 4, 2010.
10. The claimant requested a hearing on February 12, 2010 which was received by the department on February 18, 2010 protesting the department's attempt to seek recoupment of the over issued amount.

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 (formerly known as the Family Independence Agency) administers the FIP program pursuant to MCL 400.10, *et seq.*, and MAC R400.3101-3131. 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 Bridges Reference Manual (BRM).

When a client group receives more benefits than they are entitled to receive, DHS must attempt to recoup the over issuance (OI). BAM 700, p. 1. DHS must inform clients of their reporting responsibilities and prevent OIs by following BAM 105 requirements informing the client of the requirement to promptly notify DHS of all changes in circumstances within 10 days. BAM 700, PAM 105. Incorrect, late reported or omitted information causing an OI can result in cash repayment or benefit reduction. In this case of the Department admitted Agency error and that the over issuance occurred through no fault of the claimant.

In the present case, the Department has established that the claimant received more FIP cash assistance than she was otherwise entitled to receive. The claimant received a total of \$492 per month for a period of four months for a total of \$1968. The administrative law judge has reviewed the over issuance budgets as well as confirmed the earned income monthly amount based upon a verification of employment, Exhibit 4, and the child support amounts which were confirmed by the claimant. Thus based upon the foregoing it is found that the claimant did receive in over issuance of FIP cash assistance and that the department properly met its burden of proof and established that the over issuance amount is correct. The department is entitled to recoupment.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the claimant received in over issuance of FIP cash assistance benefits in the amount of \$1968 and is entitled to a supplement for FAP benefits.

It is ORDERED that the department is entitled to a recoupment of an over issuance in the amount of \$1968 for FIP benefits.

The department is not entitled to an over issuance for FAP benefits and the Department is ordered to issue a supplement in FAP benefits in the amount of \$125 and \$8 for a total of \$133.



Lynn M. Ferris
Administrative Law Judge
For Ismael Ahmed, Director
Department of Human Services

201053221/LMF

Date Signed: 10/06/2010

Date Mailed: 10/06/2010

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.

LMF/jlg

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