

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.: 201013396

Issue No.: 3020, 1030

Case No.: [REDACTED]

Load No.: [REDACTED]

Hearing Date:

May 27, 2010

Wayne County DHS

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 May 27, 2010. The Claimant appeared and testified at the hearing. [REDACTED] FIM, and [REDACTED] Assistant Payments Worker, appeared on behalf of the Department.

ISSUE

Whether the Department is entitled to recoup a Food Assistance Program (FAP) and Family Independence Assistance Program (FIP) benefit over-issuance for the period for November 1, 2009 through December 31, 2009 due to the Department's failure to delete Claimant's deceased grandchild from the FAP 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 was an active FIP and FAP recipient.
2. Claimant's grandchild, who was active on her case, passed away on 10/25/10. Claimant reported the death timely to the Department.
3. The Department failed to remove the grandchild from Claimant's FIP and FAP cases and Claimant received benefits based on a group size of two for November and December, 2009.
4. The Department sent a Notice of Over-issuance to Claimant on November 25, 2009. (Exhibit 1, p. 3).
5. The Department failed to provide any budgets documenting the overissuance of FAP benefits.
6. Claimant repaid the Department \$158.00, or one month's worth of FIP benefits.
7. On December 4, 2009, the Department received the Claimant's written request for a hearing protesting the proposed recoupment action.

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 properly remove Claimant’s grandchild from the FIP and FAP budgets following the child’s death. 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.

Based on the evidence and testimony presented on the record, the undersigned finds that if there was an overissuance of benefits, it was caused by Department error.

A. FIP

In the present case, Claimant had two individuals in her household. Claimant was receiving FIP benefits as a result of her grandchild being in the household. Once the grandchild passed away, Claimant was no longer entitled to FIP benefits. The testimony revealed that Claimant timely reported the death. Therefore, the FIP benefits should have continued through at least November 30, 2009 as November was the first full month after the change. In addition, the evidence reveals that Claimant repaid the Department \$158.00 of the FIP benefits received which would have been the amount of December, 2009 benefits. Accordingly, there is not currently an over-issuance of FIP benefits and recoupment is unnecessary.

B. FAP

In regards to a FAP over-issuance, the Administrative Law Judge finds that the Department failed to meet its burden of proof by providing evidence to show that there was an overissuance of benefits. The Department did not provide any FAP budgets showing how the over-issuance was determined. Nor did the Department provide any budgets showing what should have been correctly issued. The Department could not even indicate what amount was being recouped. Furthermore, the Department declined to submit any additional evidence. The undersigned is, therefore, unable to determine whether the FAP benefits were properly calculated or whether there actually was an over-issuance for the FAP benefits.

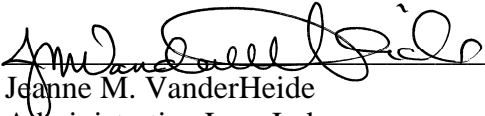
Accordingly, based on the above reference findings of fact and conclusions of law, the Department's FIP and FAP OI and recoupment actions are REVERSED.

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 a FAP and FIP over-issuance and recoupment for the time period of 11/1/09 – 12/31/09 are not upheld.

Accordingly, it is ORDERED:

1. The OI and recoupment for FIP and FAP from 11/1/09 – 12/31/09 benefits is REVERSED.
2. The Department shall cease recoupment of the 11/1/09 – 12/31/09 over-issuance and supplement the Claimant with any lost FAP benefits she was otherwise entitled to receive had the recoupment not been initiated.

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

Date Signed: June 14, 2010

Date Mailed: June 14, 2010

NOTICE: The law provides that within 30 days of receipt of the above Decision and Order, the respondent may appeal it to the circuit court for the county in which he/she lives.

JV/htw

cc:

