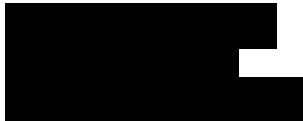


STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg No: 2010 1363
Issue No: 1030, 3020
Case No: [REDACTED]
Hearing Date:
April 20, 2011
Wayne County DHS (17)

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 conducted from Detroit, Michigan on April 20, 2011. The Claimant did not appear. Marlana Gillis Spann, Recoupment Specialist and Elyse Williams Assistance Payments Supervisor appeared on behalf of the Department.

ISSUE

Whether the Department is entitled to a recoupment of the Claimant's FAP benefits in the amount of \$565 for a FAP over-issuance and recoupment for the period December 2008 through January 2009 and a FIP Cash Assistance over-issuance and recoupment for the period December 2008 through February 2009 in the amount of \$1209, due to the Claimant's failure to report a change in household composition to account for the father of her child living with Claimant.

FINDINGS OF FACT

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

1. The Claimant was an active recipient of Food Assistance Program benefits (FAP) and Family Independence Program benefits (FIP) recipient.
2. The Claimant applied for FIP and FAP benefits by application dated August 13, 2008, and reported her address as [REDACTED]. Exhibit 1 pages 31 - 45.
3. The Department seeks to establish a recoupment due to an over-issuance of both FAP and FIP benefits in the amount of \$565 (FAP) and \$1209 (FIP). Exhibit 2 Pages 4 and 5.
4. At the time the Claimant requested a hearing regarding the over-issuance and recoupment, she listed her address as [REDACTED].
5. A Lease signed by [REDACTED] dated [REDACTED] was for [REDACTED]. The driver's license for [REDACTED] indicates that his address was the same as the lease as of [REDACTED]. The lease and the driver's license for [REDACTED] was not date stamped when it was received by the Department. Exhibits 3 and 4.
6. The Over-issuance Referral indicates that it was discovered based on verifications by client. No verifications were attached to the Over-issuance

Referral. The verifications received are not specifically referred to. Exhibit 5, page 18.

7. The Department's basis for establishing the over-issuance and recoupment is based on the Claimant's failure to report a change in group composition when she is alleged to have been living with [REDACTED]. The Department seeks to impute [REDACTED] unemployment compensation income as income to be included in the Claimant's FAP budget. Exhibit 5
8. On July 30, 2009, the Claimant requested a hearing protesting the proposed over-issuance of FAP and FIP benefits stating that she notified the Department of the change of address for herself and her daughter.

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. Departmental policies are found in the Bridges Administrative Manual ("BAM"), the Bridges Eligibility Manual ("BEM"), and the Reference Table ("RFT").

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 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 Bridges Program Reference Manual (PRM).

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 over issuance 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. In general, agency error OIs are not pursued if OI amount is under \$500.00 per program. BAM 705, pp. 1-3. In this case the amount of both over issuance exceeds \$500 dollars so the department is entitled to pursue the FAP over issuance involved in this matter.

In this case, the Department seeks debt establishment for an over-issuance of Food Assistance benefits (FAP) and FIP cash assistance benefits due to the Claimant receiving benefits, which it claims were more than she was entitled to receive because she did not timely report a change in her group composition. Specifically, the Department alleged that the Claimant failed to report that her child's father, [REDACTED] [REDACTED] was living with her and thus his income was not included in the calculation of benefits. The evidence presented by the Department did not establish that an over-issuance occurred and did not establish the Department's right to recoupment.

In the subject case, the Department did establish that [REDACTED] signed a lease in his own name and also that he changed his address on his driver's license on [REDACTED]. The Department did not establish that the Claimant's group composition had changed as no evidence was presented that established that the Claimant was living with [REDACTED] at the [REDACTED] address or any other address. The Claimant's statement on her hearing request merely says she reported a change in address but does not indicate the address. The lease presented as evidence is only in [REDACTED] name and does not establish that he was living with the Claimant. The verification information relied upon in the Over-issuance Referral was not specified or attached. Exhibit 5.

Given these facts, the Department has not established its entitlement to collect these debts as the evidence presented at the hearing did not establish change in group composition. No evidence was presented by any individual with first hand knowledge, nor was any specific information verified by the Claimant and relied upon by the Department to establish where the Claimant was living during the period when the alleged over-issuance occurred. The undersigned has reviewed the testimony of the witnesses, the documentary evidence submitted, and must find that the Department did not meet its burden of proof to demonstrate its entitlement to an over-issuance of FAP and FIP benefits as it did not establish a change in group composition such that income attributable to [REDACTED] could be included in the Claimant's group income. The Departments determination of an over-issuance and recoupment are accordingly reversed.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department did not establish its right to claim an over-issuance of FIP and FAP benefits to the Claimant resulting from a change in her group composition and thus it has not established that a debt is owed by the Claimant, and is not entitled to pursue debt collection proceedings. Its determinations with regard to over-issuance and recoupment due to change in group composition are REVERSED.


Lynn M. Ferris
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 05/19/11

Date Mailed: 05/20/11

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.

LMF/dj

cc:

