

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

IN THE MATTER OF:

[REDACTED]

Reg No: 2010 17228
Issue No: 1034, 3020
Case No: [REDACTED]
Hearing Date:
April 20, 2011
Wayne County DHS (17)

ADMINISTRATIVE LAW JUDGE: [REDACTED]

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. [REDACTED], Recoupment Specialist, 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 [REDACTED] for a FAP over-issuance and recoupment for the period September 2006 through February 2007 and a FIP Cash Assistance over-issuance and recoupment for the period September 2006 through October 2006 in the amount of [REDACTED] due to the Department's failure to properly include Claimant's updated employment earned income when computing the FAP and FIP budgets. .

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 Food Assistance Program benefits (FAP) recipient and Family Independence Program benefits (FIP) recipient.
2. The Department sought a recoupment due to an over-issuance of both FAP and FIP benefits in the amount of [REDACTED] (FAP) and [REDACTED] (FIP). Exhibit 4 pages 15 -1 6 and Exhibit 2 pages 62 – 65.
3. The Department sought recoupment for FAP over-issuance as the Claimant used her FAP benefits in the State of Ohio in violation of Department policy regarding residency and was due to client error. Exhibit 5, p. 17 - 25.
4. The claimant was deferred from attending Work First for three months due to the birth of her child and was assigned to attend Work First no later than 9/21/06. Exhibit 8
5. The Claimant did not attend work first and the Department did not close her case in a timely manner.
6. The Client was over-issued FAP benefits from 7/21/2006 through 2/28/2007.
7. The Client was over-issued FIP benefits from 9/1/2006 through 10/30/2006. Exhibit 10 Pages 31-33.
8. The Claimant received FAP benefits in the amount of [REDACTED] for the period of over-issuance. Exhibit 10, pages 35 - 37.

9. The Client was over-issued FIP benefits in the amount of [REDACTED] for the period of over-issuance. Exhibit 10, pages 25 - 28.
10. On December 21, 2009, the Department received the Claimant's written request for a hearing protesting the proposed over-issuance of FAP and FIP benefits and the 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. 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).

In this case, the Department seeks debt establishment for an over-issuance of Food Assistance benefits (FAP) due to the Claimant receiving FAP benefits while she no longer lived in Michigan and was a resident of Ohio. The Department seeks debt establishment for an over-issuance of Family Independence Program benefits of cash assistance (FIP) due to the Claimant's failure to begin the Work First program when assigned by the Department to attend no later than September 21, 2006.

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 the subject case, the Department has established its entitlement to collect these debts as the evidence presented at the hearing clearly established its right to seek recovery of both FIP and FAP benefits improperly paid to the Claimant. Food Assistance recipients are not entitled to collect FAP benefits while residing out of state. In order to be eligible to receive benefits, a client must be a resident of Michigan BEM 220, page 1. The uncontroverted evidence showed the Claimant lived in Ohio and used her food assistance card there over a period of months. Exhibits 5 and 6.

The Department also established that it provided notice to the Claimant at her last known address to report to work first no later than 9/21/06. Exhibit 8. The Claimant failed to report and the Department has established that it is entitled to establish a debt for the period of 9/1/2006 through October 2006. The Department did not pursue an over-issuance for the period November 2006 through February 2007, when it failed to close the Claimant's case.

The undersigned has reviewed the FAP and FIP budgets for the entire period and Exhibits 1 through 10 presented by the Department at the hearing and admitted as evidence, and finds that there was an over-issuance and that the Department is entitled to collect, as a debt, the amount of [REDACTED] in FAP benefits and [REDACTED] in FIP benefits. Accordingly, the Department's action for OI and debt establishment of the Claimant's FAP and FIP benefits is established by the evidence presented, and the Department is entitled to initiate collection procedures in accordance with Department policy.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department properly calculated the Claimant's FAP benefits to be over issued in the amount of [REDACTED] and FIP benefits in the amount of [REDACTED] and that the Department has established that a debt is owed by the Claimant and is entitled to pursue debt collection proceedings.

It is, therefore, ORDERED:

1. That the claimant reimburses the Department for the FAP over issuance in the total sum of [REDACTED].

2. That the claimant reimburses the Department for the FIP over issuance in the total sum of [REDACTED]
3. That the Department is entitled to and shall initiate collection procedures in accordance with Department policies.

[REDACTED]

Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 05/18/11

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:

[REDACTED]

Administrative Hearings