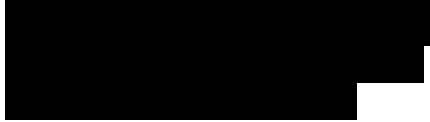


STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No.: 2010-30110
Issue No.: 1010/1030
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: October 11, 2010
Macomb County DHS (36)

ADMINISTRATIVE LAW JUDGE: Jonathan W. Owens

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.

ISSUE

Did the Department properly determine the Claimant had received an over-issuance of Family Independence Program (FIP) benefits? Did the Department fail to process the Claimant's application for (FIP)?

FINDINGS OF FACT

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

1. On October 10, 2008 the Claimant applied for FIP, Child care and Medicaid (MA).
2. On January 20, 2009 MA and CDC was activated effective October 2008. Claimant's asked about the FIP benefits.
3. On February 1, 2009 a new booklet was filled out for FIP.
4. On February 5, 2009 the Claimant was informed FIP would start February 2009.
5. In May 2009 the Claimant's started receiving foster care payments.

6. On November 9, 2009 the Department informed the Claimant they had received an over issuance of FIP for the months of July and August 2009 since they had started receiving foster care payments.
7. On January 5, 2010 the Claimant requested hearing regarding the recoupment and for the lack of processing of the October 2008 application.

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).

In the present case, the Claimant requested a hearing regarding the over-issuance of FIP benefits and the lack of processing of the October 10, 2008 application for FIP. The Claimant doesn't dispute the over-issuance of FIP benefits which the Department alleges for the months of July and August 2009. The Claimant understands they were ineligible for FIP benefits once they started to receive foster care payments. The Claimants however assert they never received a denial for their application for FIP benefits dated October 10, 2008. The Claimant's assert at no time did the Department deny their request for benefits. In fact the Department did process part of the application on January 20, 2009 and issued CDC and MA benefits back to October 2008. However the Department never addressed the request for FIP benefits.

In part, the policies provide:

BENEFIT OVERISSUANCES: BAM 700, p. 1

DEPARTMENT POLICY

All Programs

When a customer group receives more benefits than they are entitled to receive, the department must attempt to recoup the over issuance (OI).

The **Automated Recoupment System (ARS)** is the part of CIMS that tracks all FIP, SDA and FAP OIs and payments, issues automated collection notices and triggers automated benefit reductions for active programs.

An **over issuance (OI)** is the amount of benefits issued to the customer group in excess of what they were eligible to receive.

Over issuance Type identifies the cause of an over issuance.

Recoupment is a department action to identify and recover a benefit over issuance. BAM 700, p.1.

PREVENTION OF OVERISSUANCES

All Programs

The department must inform customers of their reporting responsibilities and act on the information reported within the standard of promptness.

During eligibility determination and while the case is active, customers are repeatedly reminded of reporting responsibilities, including:

- acknowledgments on the application form, **and**
- your explanation at application/re-determination interviews, **and**
- customer notices and program pamphlets.

The department must prevent OIs by following BAM 105 requirements and by informing the customer or authorized representative of the following:

- Applicants and recipients are required by law to give complete and accurate information about their circumstances.

- Applicants and recipients are required by law to promptly notify the department of any changes in circumstances within 10 days.
- Incorrect, late reported or omitted information causing an OI can result in cash repayment or benefit reduction.
- A timely hearing request can delete a proposed benefit reduction. If the department is upheld or the customer fails to appear at the hearing, the customer must repay the OI.

Record on the application the customer's comments and/or questions about the above responsibilities. BAM 700, p.2.

After reviewing the documents, this Administrative Law Judge (ALJ) finds the Department properly determined the amount of benefits to recoup from the Claimant for the months of July and August 2009. This ALJ however finds the Department failed to process the application submitted on October 10, 2008 requesting FIP benefits. The Claimant request on this matter cannot be found to be untimely since the Department never issued a notice or made a determination regarding the request for FIP benefits. Therefore the Department failed to follow policy and timely process the Claimant's request for FIP benefits. This ALJ finds the testimony given by the Claimant's regarding the interactions with the Department credible.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department of Human Services was not acting in compliance with Department policy when it failed to process the Claimant's application for FIP benefits dated October 10, 2008.

Accordingly, the Department is ORDERED to re-register the application for FIP benefits dated October 8, 2008 and make an eligibility determination and if found eligible to supplement the Claimant for any loss in benefits.

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In regards to the Departments request to recoup benefits over issued for the months of July and August 2009 this ALJ finds the Department to be correct and UPHOLDS this determination.



Jonathan W. Owens
Administrative Law Judge
For Ismael Ahmed, Director
Department of Human Services

Date Signed: 10/14/2010

Date Mailed: 10/14/2010

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.

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