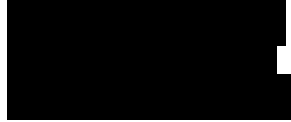


STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No.: 2010-30172
Issue No.: 1030
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: October 7, 2010
Wayne County DHS (49)

ADMINISTRATIVE LAW JUDGE: Michael J. Bennane

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 7, 2010. The claimant appeared and testified.

ISSUE

Is the department properly recouping the claimant's Family Independence Program (FIP) overissuance?

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 was an active FIP recipient.
2. The claimant began working in July, 2009.
3. On December 12, 2009, the department sent the claimant a notice that she had received an over-issuance of FIP benefits because of an agency error. (department exhibit 1)
4. On January 20, 2010, the Claimant requested a hearing.

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).

OVERISSUANCE ADJUSTMENTS

Assigned Support

FIP Only

Subtract from the OI all or part of any net assigned current support collections retained by the state for the benefit period as follows:

If the group was ineligible for FIP during the OI period, subtract the net support collections retained.

If the group was eligible for part of the FIP benefits issued, subtract the portion of the net support collections retained in excess of what the group was eligible for. (BAM 705, p. 7).

In the instant case the claimant argues that she notified WorkFirst, an agent for the department and therefore was not at fault in this over-issuance.

The department agrees that this over-issuance is the fault of the department. That fact however, does not limit the ability of the department to recoup the over-issuance. It does limit the threshold that must be met before the department can recoup the over-issuance.

An **agency error** OI is caused by incorrect actions (including delayed or no action) by DHS or DIT staff or department processes. Some examples are:

Available information was not used or was used incorrectly.
Policy was misapplied.

Action by local or central office staff was delayed.
Computer or machine errors occurred.

Information was not shared between department divisions (services staff, Work First! agencies, etc.).

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Data exchange reports were not acted upon timely (Wage Match, New Hires, BENDEX, etc.).

If unable to identify the type of OI, record it as an agency error.

**AGENCY ERROR EXCEPTIONS
FIP, SDA, CDC and FAP**

Agency error OIs are not pursued if the estimated OI amount is less than \$500 per program. (BAM 705, p.1).

In the instant case, the over-issuance was for \$1,790.00. This amount is over the threshold and the department may recoup this amount.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, AFFIRMS the Department's actions in the instant case.



Michael J. Bennane
Administrative Law Judge
For Ismael Ahmed, Director
Department of Human Services

Date Signed: 10/19/2010

Date Mailed: 10/19/2010

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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