

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

IN THE MATTER OF:



Reg. No: 201032087
Issue No: 1030; 3023
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
May 20, 2010
Macomb County DHS

ADMINISTRATIVE LAW JUDGE: Robert J. Chavez

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon claimant's request for a hearing. After due notice, a hearing was held on May 20, 2010.

ISSUE

Was the claimant properly determined to have an over-issuance in the FIP program of \$2418?

Was the claimant given the correct amount of FAP benefits during the time period in question?

FINDINGS OF FACT

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

- (1) Claimant applied for FAP in Macomb County on May 8, 2009.
- (2) Claimant received FAP benefits until August, 2009.

- (3) In August 2009, claimant's FAP benefits were inexplicably closed and a FIP case was opened in its place.
- (4) Claimant never applied for FIP.
- (5) Claimant did not have a minor child in the home, and his 18-year old child, while still attending high school, was not expected to graduate by age 18.
- (6) Claimant was ineligible for FIP.
- (7) Claimant is an Iraqi refugee and speaks no English.
- (8) Claimant was unaware that any change had been made to his case, as all benefits were deposited to his Bridge card, and he was unaware of the difference between the two programs.
- (9) Claimant received FIP benefits erroneously until February 2010, when the mistake was discovered.
- (10) By this date, claimant had received \$2418 in FIP benefits.
- (11) Claimant received none of the FAP benefits he was entitled to during this time period.
- (12) In February 2010, when the mistake was discovered, claimant's FAP benefits were restored in the amount of \$526 per month.
- (13) The Department admitted that this was an agency error and proceeded to attempt to recoup \$2418 in FIP benefits.
- (14) On March 25, 2010, claimant requested a hearing, alleging that he should not have to pay the money back because he had fulfilled his obligations to the Department.

- (15) Claimant also alleged that he had not received his FAP benefits during this time and believed that the FAP loss should offset the FIP gain.
- (16) On May 20, 2010, a hearing was held before the Administrative Law Judge.

CONCLUSIONS OF LAW

The Food Assistance Program (FAP) (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 or department) administers the FAP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3001-3015. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

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 (DHS or department) 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 Reference Manual (BRM).

Clients must report changes in circumstance that potentially affect eligibility or benefit amount. BAM 105.

A client/CDC provider error over-issuance (OI) occurs when the client received more benefits than they were entitled to because the client/CDC provider gave incorrect or incomplete information to the department. BAM 715. This includes failing to report a change. An agency error OI is caused by incorrect actions (including delayed or no action) by DHS or Department processes. BAM 705. When a client group receives more benefits than they are entitled to receive, DHS must attempt to recoup the overissuance. BAM 700.

Agency error overissuances are not pursued if the estimated OI amount is less than \$125 per program. BAM 700.

FIP groups must have a child under the age of 18 in the home, or have a child aged 18 or 19 attending high school full time and be reasonably expected to graduate by age 20. BEM 245.

The Department has shown, through clear and convincing evidence, that claimant was ineligible for the FIP grant he received during the time period in question. Claimant received \$2418 in FIP benefits during this time. Claimant did not contest that he was ineligible for the benefits in question during the time period; claimant argued that the issuance was the fault of the Department and therefore should not be recouped.

However, after a review of the case, the undersigned finds that the policy in question states that the Department must recoup benefits that were issued in error, even if that error was a result of an agency mistake. While the Department admits fault in this case—and to be clear, after an examination of the testimony and documentary evidence, the Administrative Law Judge believes that the Department made a mistake of monumental proportions—the policy states that the Department must recoup the

benefits that claimant was not eligible for. After examining the issued benefits, the Administrative Law Judge determines that this amount is \$2418. Therefore, the Department was correct to ask for recoupment, and these benefits must be recouped.

Claimant also argued that since he was supposed to receive FAP benefits, but instead received FIP benefits, any FIP benefits received should be offset by the amount of FAP benefits that should have been received. Unfortunately, while the Administrative Law Judge agrees that this would be the logical solution, logic and policy are often at odds. There is no provision in policy that would allow for such an offset, most likely because policy never contemplated how a situation such as the one before the undersigned could have possibly occurred.

However, while an actual offset is not possible, the undersigned can order the next best thing. Claimant rightly pointed out during the hearing that he did not receive FAP benefits during this time period. The evidence and testimony of record shows that the claimant had been eligible and approved for FAP benefits; these benefits were terminated, without a notice of case closure, and replaced with the FIP benefits that the claimant was ineligible for.

This too, was error, and must be corrected at the same time the FIP error is corrected. No evidence has been presented that the claimant was ineligible for FAP benefits, and no evidence was presented that claimant's FAP case was rightly placed into closure. Therefore, the Department was in error when it terminated claimant's FAP benefits, and must correct this mistake. Claimant must be issued supplemental FAP benefits, after an individual determination of eligibility for every month he did not receive FAP benefits after his application of May 2009.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department erred in closing claimant's FAP assistance case. The Department was correct when it requested recoupment of claimant's FIP benefits.

Accordingly, the Department's decision in the above stated matter is, hereby, **AFFIRMED IN PART and REVERSED IN PART.**

The Department is **ORDERED** to determine FAP eligibility for the claimant for every month since claimant's May 2009 application. The Department is **FURTHER ORDERED** to issue to the claimant any supplemental FAP benefits for these months to which he is otherwise entitled.

Recoupment of FIP benefits in the amount of \$2418 is **AUTHORIZED.**



Robert J. Chavez
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 08/26/10

Date Mailed: 08/27/10

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.

RJC/dj

cc:

