

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

IN THE MATTER OF:



Reg. No: 201044079

Issue No: 1030



Hearing Date:

September 7, 2010

Genesee County DHS

ADMINISTRATIVE LAW JUDGE: Marlene B. Magyar

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 telephone hearing was held on September 7, 2010.

ISSUE

Did the department properly initiate recoupment on claimant's ongoing Family Independence Agency (FIP) case?

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 is an unmarried mother with two minor children from two different fathers (Department Exhibit #1, pgs 5 and 11).
2. On April 23, 2010, the department received a hearing request from claimant protesting their April 10, 2010 notice to her which states she must repay FIP benefits overissued to her between June 1, 2009 and March 31, 2010.
3. Claimant's hearing was held by conference telephone on September 7, 2010.

4. The department's only witness had absolutely no knowledge of the material facts in this case because: 1) she was neither the worker nor the supervisor assigned to claimant's FIP case during the disputed period; 2) she was told she would be the department's witness approximately ten minutes before the hearing began; and 3) she had no opportunity to review any of the documents admitted at hearing or to find out about any actions taken by claimant's worker, who was retired as of the hearing date.
5. The department's only documents submitted at hearing (Department Exhibit #1, pgs 1-25) contain no evidence to verify the purported overissuance period (6/1/09-3/31/10), the purported overissuance amount (e.g., original/corrected budgets or an overissuance summary) or the purported basis on which the alleged overissuance arose (e.g., employment verifications).
6. Claimant testified credibly on the record at hearing the father of her youngest son ([REDACTED]) began living with her and her children in December 2009, but not earlier.
7. Claimant testified credibly on the record at hearing this mandatory group member (her youngest son's father) was not employed when he moved in with her, but he returned to work on February 1, 2010, a fact confirmed in the member-add application the couple completed and signed on January 19, 2010 (Department Exhibit #1, pgs 15 and 16).
8. As of the hearing date, the department's witness presented no reliable testimony or credible documentary evidence to establish how much money (if any) has been recouped from claimant's ongoing FIP grant to date, or to establish the total amount of money claimant purportedly owes.
9. Claimant testified credibly she thinks the department is claiming she owes [REDACTED] in FIP overissuances but she doesn't know why.
10. Claimant testified credibly she and her son's father broke up and he left the household permanently on March 22, 2010, a fact she immediately reported to her former caseworker, now retired (See also Finding of Fact #4 above).

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 (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 Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

The policy in BAM Item 600 sets forth the department's responsibilities during the hearing process, the primary one of which is to provide credible documentary evidence and/or testimony at hearing to support the negative action being proposed or taken. In claimant's case that simply was not done. The department completely failed to meet its burden to show how the male member-add's income caused the alleged overissuance in this case.

In fact, the only credible evidence was presented by claimant, when she testified her son's father was only a member of her household until March 22, 2010, and also, when she testified he did not even begin working until February 1, 2010. Under these circumstances, claimant's recollection that the department said she owes [REDACTED] appears to be an inflated FIP overissuance amount. The overissuance could not possibly have begun prior to February 2010 as the department's witness claims, and it could not have possibly lasted beyond March 2010, when claimant's ex-boyfriend moved out. As such, the department's FIP recoupment action must be reversed based on lack of evidence shown.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the department erroneously initiated (or erroneously proposed to initiate) recoupment action on claimant's ongoing FIP case.

Accordingly, the department's action is REVERSED, and this case is returned to the local office for deletion of the FIP negative action and issuance of a supplemental FIP payment for any monies erroneously recouped to date. **SO ORDERED.**

/s/
Marlene B. Magyar
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: September 15, 2010

Date Mailed: September 15, 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 receipt 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.

MBM/db

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