

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

IN THE MATTER OF:

[REDACTED]

Registration. No: 2010-50890
Issue No: 4060
Case No: [REDACTED]
Hearing Date: July 7, 2011
Monroe County DHS

Administrative Law Judge: Mark A. Meyer

HEARING DECISION

This matter is before the undersigned Administrative Law Judge in accordance with 7 CFR 273.18, 45 CFR 233.20(a)(13), MCL 400.9, MCL 400.37, MCL 400.43(a), MCL 24.201, *et seq.*, and 1999 AC, R 400.941, upon a hearing request by the Department of Human Services (the Department) to establish a debt based on an overissuance of benefits to Respondent. Following due notice mailed to Respondent, a hearing was held on July 7, 2011. Respondent appeared at hearing and provided testimony. The Department of Human Services (the Department) was represented by agency personnel.

ISSUE

In dispute was whether Respondent received an overissuance of Family Independence Program (FIP) benefits, which entitled the Department to recoupment.

FINDINGS OF FACT

Based on the competent, material, and substantial evidence on the whole record, the Administrative Law Judge finds as relevant fact:

1. During the month of August 2006, Respondent received FIP benefits in the amount of [REDACTED]. (Department's Exhibits D-4; D-5; D-7.)
2. In the same month, she received direct child support payments totaling [REDACTED]. (Department's Exhibit D-2.)
3. Although Respondent informed the Department that she was receiving child support payments, the agency failed to include them in computing her FIP budget for the month of August 2006. (Department's hearing summary, dated August 12, 2010; Department representative's hearing testimony, July 7, 2011.)

4. When the Department recomputed Respondent's FIP budget, and included the child support payments as unearned income, it was discovered that she was not eligible for any FIP benefits in August 2006. (Department's Exhibit D-5.)
5. On October 20, 2009, the Department notified Respondent that, due to agency error, she was overissued FIP benefits for the month of August 2006 in an amount totaling [REDACTED]. (Department's Exhibit D-8.)
6. From the Department's notice of overissuance, Respondent filed a request for hearing. (Respondent's hearing request, dated October 23, 2009.)

CONCLUSIONS OF LAW

The FIP was established under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, 8 USC 601, *et seq.* The Department administers the FIP in accordance with MCL 400.10, *et seq.*, and Rules 400.3101 through 400.3131. The FIP replaced the Aid to Dependent Children (ADC) program, effective October 1, 1996. At the time of the overissuance occurrence in dispute, agency policies pertaining to the FIP were found in the Program Administrative Manual (PAM), Program Eligibility Manual (PEM), and Program Reference Tables (PRT). The program's purpose is to provide temporary cash assistance to support a family's movement to self-sufficiency. PEM 230A, p. 1.¹

Financial need must exist to receive FIP benefits. Financial need exists when the eligible group passes both a "deficit test" and a "child support income test." The deficit test is performed by subtracting the program group's budgetable income from the eligible group's payment standard for the benefit month. PEM 518, pp. 1, 2. The monthly assistance payment standard for a group size of 5 in August 2006 was [REDACTED]. PRT 210, p. 1.

Financial need exists if:

- there is at least a [REDACTED] deficit after income is budgeted, and
- the group passes the child support income test.

PEM 518, p.2. If no deficit exists, the group is ineligible to receive FIP benefits in that month. PEM 518, p. 2.

In determining FIP eligibility or benefit level, the entire amount of countable and available income – both earned and unearned – is used. PEM 505, p. 2. Child support income is a component of determining eligibility for FIP benefits. See PEM 518. Clients receiving cash assistance are responsible for reporting changes in circumstances that

¹ Policy citations are to Department of Human Services (Department) policy in effect at the time of the benefit overissuance in dispute.

have the potential for affecting eligibility or benefit amount. PAM 105, p. 7. This includes the proper and correct reporting of income – both earned and unearned – including child support payments. PAM 105, p. 7; PEM 500, p. 10.

When the Department is made aware of, or the client reports, a change in income that will affect eligibility or benefit level, a new FIP budget must be completed. PEM 505, p. 8.

Here, during the month of August 2006, Respondent received FIP benefits. She also received direct child support payments totaling [REDACTED]. She retained the entire amount. The Department knew or should have known that Respondent was receiving direct child support – she noted it in her FIP application. The agency failed, however, to include this income in budgeting her benefits. When those payments, the amounts of which were uncontested, were included in Respondent's FIP budget, it was determined that she received an overissuance of benefits during the month of August 2006 in the amount of [REDACTED].

This amount was determined after adding the child support payments to her other unearned income. Respondent's budgetable income was then computed to be [REDACTED] for the month of August 2006. Under PEM 518, this amount was then subtracted from her assistance payment standard ([REDACTED] at that time). But, doing so here resulted in no deficit. As a result, Respondent was not eligible for any FIP benefits in August 2006. PEM 518, pp. 1, 2. Due to agency error, however, she received FIP benefits for that month in the amount of [REDACTED]. An overissuance of benefits was thus created.²

An overissuance is the amount of benefits issued to a client in excess of what he or she was entitled to receive. PAM 700, p. 1. When this occurs, the Department must attempt to recoup the overissuance. PAM 700, p. 1.

There are agency errors and client errors that result in overissuances. An agency error occurs when incorrect action is taken by the Department. PAM 700, p. 3. For the time period in issue, the threshold for pursuing recoupment of an overissuance due to agency error was [REDACTED] or more.³ PAM 700, p. 3, 5. A client error occurs when the client received more benefits than he or she was entitled to because the client provided incorrect or incomplete information to the Department. PAM 700, p. 4. For the time

² It appeared from the evidence presented that even without the addition of child support payments received by Respondent in August 2006, the group did not meet the deficit test and should not have been approved for any Family Independence Program (FIP) benefits in that month. (See Department's Exhibit D-5.) This must also be deemed agency error.

³ The recoupment threshold for an overissuance due to either Department or client error was lowered to [REDACTED] or more, effective August 1, 2008. Bridges Administrative Manual (BAM) 700, pp. 4, 7; BAM 705, p. 1.

period in issue, the Department did not seek recoupment of an overissuance caused by client error unless the amount was [REDACTED] or more. PAM 700, p. 5.

Generally, when a client is currently in an active FIP benefits case, the Department will seek to recoup the determined overissuance from those benefits. See PAM 705, pp. 7-8. In those situations, it is the client who must file a timely request for hearing to contest the recoupment action. PAM 705, pp. 7-8. But, when an overissuance is determined and the client is not currently within an active benefits case, the Department must request a hearing to establish the outstanding debt. See PAM 705, p. 8. The agency did so here.

Overissuances on active programs are repaid by:

- Lump sum cash payments.
- Monthly cash payments (when court ordered).
- Administrative recoupment (benefit reduction).

[PAM 725, p. 7.]

Overissuance balances on inactive cases must be repaid by lump sum or monthly cash payments unless collection is suspended. PAM 725, p. 9.

Repayment of an overissuance is the responsibility of:

- Anyone who was an eligible, disqualified, or other adult in the program group at the time the overissuance occurred.
- A [Food Assistance Program (FAP)] authorized representative if they had any part in creating the FAP overissuance. [PAM 725, p. 1.]

Here, the Department provided sufficient and credible evidence establishing that Respondent received an overissuance of FIP benefits for the month of August 2006 in the amount of [REDACTED]. Respondent did not dispute the amount of unearned income used by the Department in making this determination. Likewise, she did not dispute the budgeting process used by the agency to determine the overissuance amount. Finally, there was no evidence presented by either party indicating that the agency's overissuance computation was in error, incorrect, or otherwise improper.⁴

⁴ The Department also determined that Respondent received an overissuance of Food Assistance Program (FAP) benefits in August 2006. The Department admitted, however, that the cause of the FAP benefits overissuance was agency error and that the amount was under the [REDACTED] threshold in effect at that time.

Whether it was agency error or client error that caused the overissuance in dispute, the Department was required to recoup the amount of FIP benefits to which Respondent was not entitled. PAM 700, p.1.

DECISION AND ORDER

Based on the above findings of fact and conclusions of law, the Administrative Law Judge decides that Respondent received an overissuance of FIP benefits for the month of August 2006.

Therefore, the Department is entitled to recoup the FIP overissuance from Respondent in the amount of [REDACTED].

It is SO ORDERED.

/s/ _____
Mark A. Meyer
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: _____

Date Mailed: _____

NOTICE: Respondent may appeal this decision and order within 60 days of the above mailing date. The appeal may be made to the circuit court for the county in which Respondent resides or has his or her principal place of business in this State, or in the circuit court for Ingham County. Administrative Hearings, on its own motion, or on request of a party within 60 days of the above mailing date, may order a rehearing.

MAM/sc

cc: [REDACTED]