

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 2011-21581
Issue No: 1030

[REDACTED]
Calhoun County DHS

ADMINISTRATIVE LAW JUDGE: Vicki L. Armstrong

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Respondent's request for a hearing. After due notice, a telephone hearing was held on May 18, 2011. Respondent personally appeared with his two sons, [REDACTED], and all three provided testimony.

ISSUE

Did the department act properly in trying to recover a FAP overissuance that Respondent received due to department error?

FINDINGS OF FACT

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

1. Respondent has been a FIP recipient at all times relevant to this matter. (Hearing Summary).
2. During a consolidated inquiry the department discovered Respondent's grandsons' RSDI income. Due to departmental error, the department failed to count Respondent's grandsons' RSDI income in determining Respondent's eligibility for FIP benefits. (Hearing Summary).
3. As a result of the departmental error, Respondent received a [REDACTED] FIP overissuance during the period of August 2008 through July 2009. (Department Exhibits 6-37).

4. On February 8, 2011, the department sent Respondent written notice of the FIP overissuance, a DHS-4358-A, requesting that he repay it. (Department Exhibits 1-5).
5. On February 25, 2011, the department received Respondent's hearing request, protesting the department's determination that he must repay the FIP overissuance that he received due to the department's error.

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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), Reference Table Manual (RFT), and the Bridges Reference Manual (BRM).

The FIP eligibility determination group, (EDG) means those individuals living together whose information is needed to determine FIP eligibility. The FIP EDG participation status explains the role the individual plays in the FIP eligibility determination. Individuals having a FIP EDG participation status other than Excluded Adult or Excluded Child, are included in the FIP EDG. A person other than a legal parent or stepparent may be a caretaker only when the dependent child has no legal parent or stepparent in the home. BEM 210. In this case, Claimant is the dependents grandfather and hence, caretaker, because there is no legal parent or stepparent in the home.

All earned and unearned income available to the Respondent is countable. Earned income means income received from another person or organization or from self-employment for duties that were performed for compensation or profit. Unearned income means all income that is not earned, including but not limited to funds received from the Family Independence Program (FIP), State Disability Assistance (SDA), Child Development and Care (CDC), Medicaid (MA), Social Security Benefits (RSDI/SSI), Veterans Administration (VA), Unemployment Compensation Benefits (UCB), Adult Medical Program (AMA), alimony, and child support payments. The amount counted may be more than the client actually receives because the gross amount is used prior to any deductions. BEM 500.

The Department determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. Actual income is income that was already received. Prospective income is income not yet received but expected. Prospective budgeting is the best estimate of the client's future income. BEM 505.

All income is converted to a standard monthly amount. If the client is paid weekly, the Department multiplies the average weekly amount by 4.3. If the client is paid every

other week, the Department multiplies the average bi-weekly amount by 2.15. BEM 505.

An overissuance is the amount of benefits issued to the client group in excess of what they were eligible to receive. BAM 705. The amount of the overissuance is the amount of benefits the group actually received minus the amount the group was eligible to receive. BAM 720. When a client group receives more benefits than they are entitled to receive, the Department must attempt to recoup the overissuance. BAM 700.

Department errors are caused by incorrect actions by the Department. BAM 705. Department error overissuances are not pursued if the estimated overissuance is less than [REDACTED] per program. BAM 700. Client errors occur when the customer gave incorrect or incomplete information to the Department. Client errors are not established if the overissuance is less than [REDACTED] unless the client group is active for the overissuance program, or the overissuance is a result of a quality control audit finding. BAM 700.

Respondent was an on going FIP recipient and received FIP benefits from August 2008, through July, 2009. Respondent's grandsons were receiving RSDI in the amount of [REDACTED] per month. During a consolidated income match, the department discovered, due to a departmental error, this RSDI income was not used to determine Respondent's eligibility for FIP benefits, resulting in Respondent receiving a total FIP overissuance of [REDACTED]. The Administrative Law Judge finds, based on the evidence and testimony available during the hearing, that the department has established that Respondent received a [REDACTED] FIP overissuance, which the department is required to recoup.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department established that Respondent received a [REDACTED] FIP overissuance due to department error.

Accordingly, the department's recoupment of overissued FIP benefits is AFFIRMED.

It is SO ORDERED.

_____/s/_____
Vicki L. Armstrong
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: ___5/23/11_____

Date Mailed: ___5/23/11_____

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 60 days of the filing of the original request.

The Respondent 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.

VLA / ds

■ [REDACTED]