

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2011 54848
Issue No.: 1031
Case No.: [REDACTED]
Hearing Date: November 14, 2011
County: Wayne County DHS (43)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Claimant's request for a hearing. After due notice, a telephone hearing was held on November 14, 2011, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant and her spouse, [REDACTED]. Participants on behalf of Department of Human Services (Department) included [REDACTED], JET Case Manager and FIS.

ISSUE

Did the Department properly determine overissuance amounts of FIP Cash Assistance benefits for the period April 2010 through February 2011?

FINDINGS OF FACT

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

1. The Claimant is a recipient of Food Assistance. The Claimant's cash assistance (FIP) closed on 8/1/11 due to excess income making the Claimant ineligible.
2. The food assistance issue in the Claimant's hearing request was resolved by the Claimant and the Department prior to the hearing, and is no longer an issue to be resolved in this case.
3. The Claimant began receiving SSI from the Social Security Administration in February 2011. Claimant Exhibit 3.

4. 7/12/11 Notice of Case Action granted the Claimant \$824 in benefits owed to her which the Claimant received less prior overissuance of cash benefits. The notice also closed the Claimant's cash assistance due to excess income.
5. The Claimant did not receive the \$824 in cash assistance covering the period 6/1/11 through 7/31/11, but instead received only \$262 of that amount.
6. On 7/12/11 the Department issued a Notice of Overissuance for the period April 2010 to September 30, 2010 for \$193. The Department sought an overissuance balance of \$137 based on prior payments.
7. On 7/12/11 The Department issued a second Notice of Overissuance for the period October 2010 to February 28, 2011 in the amount of \$558.
8. The Department administratively deducted the overissuance amount of \$558 from the \$820 issuance which represented the Claimant's June and July 2011 FIP cash benefits, and paid the Claimant the difference of \$262 for June and July 2011 benefits.
9. On February 3, 2011 the Social Security Administration advised that it paid the Department \$783 representing the Claimant's first SSI payment because the Department paid the Claimant all or part of her FIP benefits during the period August 2010 through December 2010. The Department was to deduct from the amount paid to it by Social Security the Claimant's FIP benefits received during the period. Claimant Exhibit 3.
10. The Department stipulated that the cash benefits paid to the Claimant during the period August 2010 – December 2010 was \$735 and agreed the Department owed the Claimant the \$48 balance. Claimant Exhibit 3.
11. During the same period August 2010 through December 2010, the Department recouped the FIP benefits amount paid to the Claimant.
12. The Claimant requested a hearing on 9/16/11 protesting the overissuance notices and the Department's administrative recoupment.

CONCLUSIONS OF LAW

Department policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT).

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 42 USC 601, *et seq.* The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, R

400.3101 through R 400.3131. FIP replaced the Aid to Dependent Children (ADC) program effective October 1, 1996.

This matter arises out of a series of Notices of Overissuance for FIP benefits received by the Claimant for the time period April 2010 through February 2011. The Claimant asserted that the Department was paid \$783 of her first SSI payment to cover FIP benefits already issued to her for August 2010 through December 2010 as a reimbursement. The Department also sought overissuance during the same period of time.

Additionally, during the hearing, the Department presented no evidence to establish any of the overissuances presented by the two Notices of Overissuance dated 7/12/11. The Department is required to establish an overissuance it seeks to recoup based on the correct benefits the Claimant should have received and establish the correct issuance amount based on a budget. The Department did not provide any budgets. The Department did not meet its burden of proof to establish the overissuance amounts purportedly established by the two Notices of Overissuance.

In addition the Claimant established that she agreed to have her FIP cash benefits reimbursed to the Department out of her first SSI check in the amount of \$783 issued to the Department. The \$783 covered the period August 2010 through December 2010 and the Claimant's FIP benefits during the same period amounted to \$ 735. The Department did not confirm, and thus did not dispute that it received the money from Social Security and conceded that it owed the Claimant \$48. ($\$783 - \$735 = \48).

Notwithstanding that the Department was reimbursed from the Claimant's SSI benefits, the Department also sought recoupment of benefits for the same time period by its two Notices of Overissuances issued 7/12/11. The Department also administratively recouped \$558 in cash assistance overissuance from the Claimant June and July 2011 FIP benefits.

The Department deducted from the Claimant's June and July 2011 FIP benefits of \$820 the alleged overissuances of FIP for October 2010 through February 2011 in the amount of \$558 from the FIP the Department was going to issue, and issued the Claimant FIP for the balance of \$262. See Notice of Case Action dated 7/12/11. This was in error for two reasons. The first reason is that the Department did not establish at the hearing a basis for the overissuance for any of the months including February 2011, and secondly the Department already received reimbursement from the Social Security Administration for FIP benefits for August 2010 through December 2010 for all the months in the two Notices of Overissuance except for February 2011.

The second Notice of Overissuance issued 7/12/11 in the amount of \$193 (\$137) covered the period April 2010 through September 30, 2010. The Department's Notice of overissuance concludes: "we subtracted the amount we owe you to repay this overpayment. You still owe us \$137".

The Department is not entitled to seek any overissuance or recoupment for August and September 2010 as this is part of the reimbursement period that SSI funds were provided to repay the Department for those benefit months as discussed above. For the period April, May, June and July, 2010, the Department did not establish the overissuance amount for those months was correct by a budget, or any other evidence, and thus is not entitled to a finding of overissuance and may not recoup for these months.

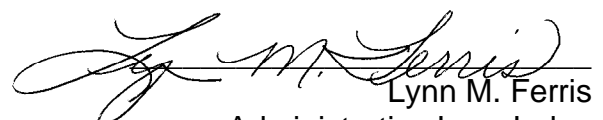
DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department did act properly when . did not act properly when it administratively recouped FIP benefits and issued Notices of Overissuance dated 7/12/11.

Accordingly, the Department's AMP FIP FAP MA SDA CDC decision is AFFIRMED REVERSED for the reasons stated on the record and in this Decision.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. The Department shall initiate deletion and removal of the overissuance of \$193 (\$137) covering the period April 1, 2010 through September 30, 2010 based on its Notice of Overissuance of 7/12/11.
2. The Department shall initiate deletion and removal of the overissuance of \$558 covering the period October 1, 2010 through February 28, 2011 based on its Notice of Overissuance of 7/12/11.
3. The Department shall initiate issuance for repayment to the Claimant an amount of \$48.00, representing the difference of her SSI payment of \$783 paid to the Department and the Claimant's FIP benefits of \$735 received for the period August 2010 through December 2010.
4. The Department shall recalculate the Claimant's FIP benefit entitlement for the period June 1, 2011 through July 30, 2011 and shall deduct from the Claimant's FIP benefit entitlement for those months \$262 in FIP benefits already received by the Claimant for that period and issue a supplement, if any, to the Claimant for FIP benefits she was otherwise entitled to receive in those months.


Lynn M. Ferris
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 11/23/11

Date Mailed: 11/23/11

NOTICE: Michigan Administrative Hearing System (MAHS) 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. MAHS 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. (60 days for FAP cases)

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.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
 - misapplication of manual policy or law in the hearing decision,
 - typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
 - the failure of the ALJ to address other relevant issues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail at
Michigan Administrative Hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

LMF/hw

cc:

