

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2011-3683
Issue Nos.: 1030, 3020
Case No.: [REDACTED]
Hearing Date: January 3, 2011
DHS County: Monroe

ADMINISTRATIVE LAW JUDGE: Jonathan W. Owens

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 January 3, 2011. Claimant appeared and testified.

ISSUE

Did the Department of Human Services (Department) properly determine that Claimant had received an overissuance of Food Assistance Program (FAP) and Family Independence Program (FIP) benefits based upon not being a Michigan resident?

FINDINGS OF FACT

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

1. On November 7, 2008, Claimant and his family moved to [REDACTED].
2. On January 14, 2009, the Department received information indicating Claimant had moved to [REDACTED].
3. On August 9, 2010, the Department determined an overissuance in benefits had occurred, specifically \$2,460 in FIP and \$1,512 in FAP benefits.
4. On August 30, 2010, Claimant requested a hearing regarding the Department's attempt to recoup.

CONCLUSIONS OF LAW

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 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 Program Reference Manual (PRM).

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 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 BAM, BEM and PRM.

In the present case, Claimant requested a hearing regarding the overissuance of FIP and FAP benefits. Claimant testified he and his family were in [REDACTED] temporarily while housing in Michigan was being prepared for them to return. Claimant acknowledged he failed to inform the Department of the housing change. Claimant testified the Department should have been aware, since the worker had been made aware of the court proceedings regarding his housing. However, Claimant never informed the Department he and his family had located housing in [REDACTED]. Claimant indicated his children were attending schools in [REDACTED]. Claimant did not have a residence in Michigan or any obligations regarding housing in Michigan. Claimant testified he always intended to return to Michigan and pointed to the shelter verification which indicated housing was temporary.

The issue before this Administrative Law Judge is whether or not Claimant can continue to claim to be a Michigan resident while residing in [REDACTED]. The policy does allow for temporary absence from the State. Claimant doesn't appear to have received benefits from another state. The evidence submitted does show that Claimant had no obligations on any residence in Michigan and, in fact, had enrolled his children in schools in [REDACTED].

In part, the policies provide:

BENEFIT OVERISSUANCES

DEPARTMENT POLICY

All Programs

When a customer group receives more benefits than they are entitled to receive, the department must attempt to recoup the over issuance (OI).

The **Automated Recoupment System (ARS)** is the part of CIMS that tracks all FIP, SDA and FAP OIs and payments, issues automated collection notices and triggers automated benefit reductions for active programs.

An **overissuance (OI)** is the amount of benefits issued to the customer group in excess of what they were eligible to receive.

Overissuance Type identifies the cause of an overissuance.

Recoupment is a department action to identify and recover a benefit over issuance.

BAM 700, p.1.

PREVENTION OF OVERISSUANCES

All Programs

The department must inform customers of their reporting responsibilities and act on the information reported within the standard of promptness.

During eligibility determination and while the case is active, customers are repeatedly reminded of reporting responsibilities, including:

- acknowledgments on the application form, **and**
- your explanation at application/re-determination interviews, **and**
- customer notices and program pamphlets.

The department must prevent OIs by following BAM 105 requirements and by informing the customer or authorized representative of the following:

- Applicants and recipients are required by law to give complete and accurate information about their circumstances.

- Applicants and recipients are required by law to promptly notify the department of any changes in circumstances within 10 days.
- Incorrect, late reported or omitted information causing an OI can result in cash repayment or benefit reduction.
- A timely hearing request can delete a proposed benefit reduction. If the department is upheld or the customer fails to appear at the hearing, the customer must repay the OI.

Record on the application the customer's comments and/or questions about the above responsibilities.

BAM 700, p. 2.

Relevant policy - BEM 220, p. 1:

All Programs

USCIS refers to the U.S. Citizenship and Immigration Services, formerly, the Bureau of Citizenship and Immigration or Immigration and Naturalization Service.

To be eligible, a person must be a Michigan resident. Bridges uses the requirements in the Residence section in this item to determine if a person is a Michigan resident.

RESIDENCE

FIP, SDA and AMP

A person is a resident if he:

- Is not receiving assistance from another state; **and**
- Is living in Michigan, except for a temporary absence, and
- Intends to remain in the state permanently or indefinitely.

CDC and FAP

A person is considered a resident while living in Michigan for any purpose **other than a vacation**, even if he has no intent

to remain in the state permanently or indefinitely. Eligible persons may include:

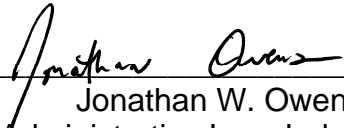
- Persons who entered the state with a job commitment or to seek employment; and
- Students (For FAP **only**, this includes students living at home during a school break.)

After reviewing the documents and policy, this Administrative Law Judge finds the Department properly determined Claimant was not a Michigan resident. The evidence of his residency supports a finding he was a resident of [REDACTED] at the time he received benefits. His postal address was changed, his children were attending schools in [REDACTED] and he did not have residence in Michigan nor any obligations to maintain a residence in Michigan. The evidence of his address change effective November 2008 and his residence not changing back to Michigan until some time after April 2009 allow for the Department to recoup FIP and FAP benefits issued incorrectly. Claimant failed to report an address change within 10 days of his move.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department was acting in compliance with Department policy when it determined Claimant received benefits he was not eligible for, specifically FIP and FAP program benefits.

Accordingly, the Department's decision is UPHELD. The Department is allowed to recoup FIP benefits in the amount of \$2,460 and FAP benefits in the amount of \$1,512.


Jonathan W. Owens
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: January 4, 2011

Date Mailed: January 4, 2011

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.

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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.

JWO/pf

cc:

