

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF: [REDACTED]

Claimant

Reg. No: 200625328

Issue No: 3052; 1030

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

August 27, 2009

Genesee County DHS

ADMINISTRATIVE LAW JUDGE: Robert J. Chavez

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 August 27, 2009.

ISSUE

Did the Department properly request recoupment for an overissuance of benefits in the amount of \$802 for the FIP program and \$456 for the FAP program?

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 July 25, 2001, DHS received a report showing that claimant had been employed since October 2000.
- (2) Claimant received FAP and FIP benefits during this time.
- (3) Claimant had reported this income to the Department, but it was not processed.

- (4) The Department determined that if this income had been processed, claimant would not have been entitled to FIP benefits and would have only been entitled to \$10 in FAP benefits.
- (5) This case was sent to the OIG for investigation; OIG declined the case 5 years later and returned it to the Department for recoupment determination.
- (6) An overissuance notice was sent to the claimant in 2006 that determined that claimant's FAP overissuance was in the amount of \$456, and claimant's FIP overissuance was in the amount of \$802.
- (7) On August 31, 2006, claimant requested a hearing, denying the overissuance as an agency error.

CONCLUSIONS OF LAW

The Food Assistance Program (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 of Human Services (DHS or department) administers the FAP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3001-3015. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

A client/CDC provider error overissuance (OI) occurs when the client received more benefits than they were entitled to because the client/CDC provider gave incorrect or incomplete information to the department. PAM 715. This includes failing to report a change. An agency error OI is caused by incorrect actions (including delayed or no action) by DHS or department

processes. PAM 705. When a client group receives more benefits than they are entitled to receive, DHS must attempt to recoup the overissuance. PAM 700.

In January 2001, agency error OI's are not pursued if the estimated OI amount was less than \$1000 per program. PAM 705.

Claimant testified at hearing that she had reported her new income timely. The Department was unable to rebut this testimony. Given the age of the case, the general credibility of the claimant, and the Department's history of occasionally not recording reported changes, the undersigned finds claimant's testimony in the matter credible and holds that any overissuance was due to agency error.

As a general principal of law, the Administrative Law Judge will use whatever policies and regulations were in place at the time the overissuance occurred. As the policy in place at the time the overissuance occurred (and at the time the overissuance was discovered) stated, the OI's are not to be pursued if the amount is less than \$1000 per program, and both prospective overissuances, taking the Department's math at face value, are below that threshold. Recoupment is inappropriate in the current case.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the FAP and FIP overissuances in the current case are below the threshold for pursuit.

Accordingly, the Department's decision in the above stated matter is, hereby,
REVERSED.

Recoupment is DENIED.



Robert J. Chavez
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 05/12/10

Date Mailed: 05/13/10

NOTICE: The law provides that within 30 days of receipt of the above Decision and Order, the respondent may appeal it to the circuit court for the county in which he/she lives.

RJC/dj

cc:

