

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.: 2007-12306
Issue No.: 3052
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
May 12, 2010
Macomb County DHS (36)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Claimant's request for a hearing. After due notice, a telephone hearing was conducted from Detroit, Michigan on May 12, 2010. Claimant appeared and testified; [REDACTED] also appeared and testified on behalf of Claimant. On behalf of Department of Human Services (DHS), [REDACTED], Specialist, appeared and testified.

ISSUE

Whether DHS properly sought recoupment of \$1,127 in FAP benefits due to agency-error over-issuance.

FINDINGS OF FACT

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

1. As of 6/2004, Claimant was an ongoing FAP recipient.
2. Beginning 6/2004 and through 7/2005, Claimant received a total of \$1,267 in FAP benefits.

3. Beginning 6/2004 and through 7/2005, DHS issued FAP benefits to Claimant based on a monthly income of \$222/month in RSDI for Claimant's daughter.
4. Claimant's daughter actually received \$575/month in RSDI in 6/2004 through 12/2004 and \$595/month in RSDI from 1/2005 through 7/2005.
5. Had Claimant's daughter's income been correctly budgeted, Claimant would have received a total of \$140 in FAP benefits from 6/2004 through 7/2005.
6. Claimant was over-issued a total of \$1,127 in FAP benefits from 6/2004 through 7/2005.
7. DHS sent Claimant a notice of the overissuance and a recoupment notice on 5/3/2006.
8. Claimant submitted a hearing request on 5/15/2006 disputing the recoupment action.

CONCLUSIONS OF LAW

The Food Assistance Program (formerly known as the Food Stamp 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 (formerly known as the Family Independence Agency) administers the FAP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3001-3015. As of 2006, the time of Claimant's hearing request, the applicable DHS policies were located in Program Administrative Manual (PAM) and Program Eligibility Manual (PEM).

PAM 700 defines benefit over-issuances as the amount of benefits issued to the client group in excess of what they were eligible to receive. Over-issuances (OI) are categorized as agency caused or client caused. Agency error OI is not pursued if the estimated OI amount is less than \$500 per program. PEM 705 at 1.

In the present case, DHS discovered that the income for Claimant's daughter was incorrectly budgeted. DHS originally budgeted \$222/month from 6/2004-7/2005 in RSDI income

for Claimant's daughter. Claimant received FAP benefits from 6/2004-7/2005 based on the under-budgeted RSDI income. DHS verified that Claimant's daughter's income was actually \$575/month in 6/2004 and increased to \$591/month in 1/2005. Exhibit 3. Using the correct RSDI income, DHS discovered that from 6/2004-7/2005, Claimant should have received \$1,127 less in FAP benefits. DHS provided monthly budgets from 6/2004 through 7/2005 (Exhibit 4) to verify the overissuance amount. It is found that DHS correctly calculated the FAP benefit overissuance as \$1,127.

DHS identified the FAP benefit overissuance as one of agency error. Because the amount of OI (\$1127) exceeds the \$500 threshold, DHS is authorized to pursue recoupment of the FAP benefits. Though DHS accepted the error as their own, Claimant inaccurately reported the RSDI income on an Assistance Application dated 7/20/04. Exhibit 1 It should also be noted that Claimant is not suspected of intentionally misreporting the income.

Had Claimant timely reported the RSDI increase, the effective month for the FAP benefit reduction would have been 6/2004. Though Claimant's daughter received \$575 in 5/2004, the effective benefit month would be delayed because Claimant is given time to report changes, DHS is given time to process changes and Claimant is entitled to notice of the change before the change is effective. It is found that DHS correctly did not seek recoupment for 5/2004.

DECISION AND ORDER

The actions taken by DHS are AFFIRMED. The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS over-issued Claimant FAP benefits from 6/2004-7/2005, DHS properly calculated the over-issuance to be \$1,127 and DHS followed their policies in the recoupment of FAP benefits.

Christian Gardocki

Christian Gardocki
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 5/26/2010

Date Mailed: 5/26/2010

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 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.

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