STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF: ██████████

                    Respondent

Reg. No.: 2007-15504
Issue No.: 3052
Case No.: ██████████
Load No.: ██████████
Hearing Date:
September 9, 2009
St. Clair County DHS

ADMINISTRATIVE LAW JUDGE: Michael J. Bennane

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; and MCL 400.37, 7 CFR 273.16, MAC R 400.3130, and MAC R 400.3178 upon the Department of Human Service (Department) request for a disqualification hearing. After due notice, a telephone hearing was held on September 9, 2009. The Respondent did not appear. The Department was represented by ██████████, recoupment specialist for the Department of Human Services.

ISSUES

Is the Department entitled to recoup $884.00 in FAP benefits?

FINDINGS OF FACT

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

(1)   On July 11, 2006, negative action was scheduled to take place against the claimant's FAP due to failure to comply with work related activities.

(2)   On November 1, 2006, a hearing was held by the State Office of Administrative Hearings and Rules (SOAHR). The ALJ found in favor of the department and that the claimant was in noncompliance. (Department exhibits 17-23). The claimant continued to receive benefits after the filing of the hearing request pre policy and SOAHR eventually ruled against the claimant.

(3)   On November 2, 2006, the claimant reported new employment and the department used figures supplied by the claimant to figure his FAP budget. The claimant was ineligible for FAP beginning in December based on excessive income.

(4)   On November 22, 2006, the claimant again filed a request for a hearing on the denial of FAP based on excessive income. The department again withdrew the negative action pending the hearing.

(5)   On November 29, 2006, the department filed to recoup the overissuance of benefits stemming from the claimant's continuation of benefits prior to the November 1, 2006 hearing.

(6)   On January 23, 2007, the department filed to recoup the overissuance of benefits stemming from the claimant's continuation of benefits during December 2006.

(7)   The Department is requesting to recoup $476.00 in FAP benefits for the period of August, 2006, through November, 2006.

(8)   The department is also requesting to recoup $408.00 for the period of December 2006.

(9)   The Department mailed a notice of this hearing to the Respondent at his/her last known address: ███████████████████████; and the mail was not returned.

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<div align="center">CONCLUSIONS OF LAW</div>

The Food Assistance Program (FAP) (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 administers the FAP program pursuant to MCL 400.10, 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).

In this case, the department has requested recoupment of the overissuance. The department's manuals provide the relevant policy statements and instructions for department caseworkers. In part, the policies provide:

BENEFIT OVERISSUANCES: PAM 700, p. 1

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

Over issuance Type identifies the cause of an over issuance.

Recoupment is a department action to identify and recover a benefit over issuance. PAM 700, p.1…

 And:

OVERISSUANCE AMOUNT

<div align="center">3</div>

FIP, SDA, CDC and FAP Only

The amount of the OI is the amount of benefits the group actually received minus the amount the group was eligible to receive. PAM 720, p. 6.

In this case, the department deleted a benefit sanction when the claimant requested a hearing as per department policy.

Definitions

All Programs

A client error OI occurs when the client received more benefits than they were entitled to because the client gave incorrect or incomplete information to the department.

A client error also exists when the client's timely request for a hearing results in the deletion of a DHS action, and

The hearing decision upholds the DHS action, **or**

The client withdraws the hearing request, **or**

The client fails to appear for the hearing which is not rescheduled, **and**

The State Office of Administrative Hearings and Rules (SOAHR) send written notice to proceed with case actions. (PAM 715, p.1).

The department has established by clear and convincing evidence that respondent continued to receive benefits after he filed for a hearing in two instances.

The Department is entitled to recoup the amount issued in excess of what the respondent was eligible to receive. The undersigned reviewed the FAP budgets presented and the over-issuance amount of FAP benefits they show; and finds the Department's FAP budget computations to be correct. Respondent owes $884.00 in FAP benefits. The Department is entitled to recoup this amount.

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DECISION AND ORDER

The Administrative Law Judge, based upon the clear and convincing evidence, decides

the following, the Department is entitled to recoup over issuance of FAP benefits a total of

$884.00.

Michael J. Bennane
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 12/4/09

Date Mailed: 12/4/09

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.

MJB/jlg

cc: