

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.: 2007-19791
Issue No.: 3020
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: November 24, 2010
Wayne County DHS (17)

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 upon the claimant's request for a hearing. After due notice, a telephone hearing was held on November 24, 2010. The Claimant did not appear. [REDACTED], Recoupment Specialist, appeared on behalf of the Department.

ISSUE

Whether the Department is entitled to reduce Claimant's FAP benefits in order to recoup for a \$2,072 FAP over-issuance for the period from 10/1/06 through 1/31/07 due to the Department's failure to properly include Claimant's updated employment earned income?

FINDINGS OF FACT

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

1. The Claimant was an active FAP recipient.
2. On 9/18/06, the Claimant provided the Department notice of employment and filed a New Hire Report. (Exhibit 1, p. 2-3)
3. The Department failed to include the updated household earned income in the FAP budget and acknowledged an Agency Error. Exhibit 2 and Exhibit, Employee Wage History. Exhibit A
4. The Claimant was not entitled to FAP benefits form 10/1/06 through 1/31/07.

5. The Claimant received FAP benefits in the amount of \$518 per month for the period 10/1/06 through 1/31/07. Exhibit 5 page 31 and 32.
6. The overissuance was determined to be due to Agency Error. Exhibit 2
7. The Claimant advised the Department that her spouse was not working in January 2007, as he was laid off (Claimant hearing request) however the Employee Wage History showed income in the amount of \$4,882. Exhibit A. and Exhibit 3, pages 29 and 30.
8. The Claimant was not entitled to receive FAP benefits of \$518 during the October 1, 2006 through January 31, 2007 . Exhibit 4, page 29 and 30.
9. As a result of the Agency error, the Department indicated that Claimant received a FAP over-issuance for the period October 1, 2006 through January 31, 2007 totaling \$2,072. (Exhibit 1, p. 25) and Exhibit 3 page 6. The Claimant received \$518 in FAP benefits each month during the over issuance period for a total overissuance of \$2,072.
10. On April 9, 2007, the Department received the Claimant's written request for a hearing protesting the proposed overissuance of FAP benefits and the recoument action.

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 (formerly known as the Family Independence Agency) administers the FAP program pursuant to CML 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 Bridges Reference Manual (BRM).

In this case, the Department seeks recoument of an over-issuance of FAP benefits due to the Department's failure to include Claimant's updated group earned income in the FAP budget. An over-issuance ("OI") occurs when a client group receives more benefits than they are entitled to receive. BAM 700, p. 1. A claim is the resulting debt created by the over issuance of benefits (OI). *Id.* Recoument is an action to identify and recover a benefit. *Id.* The Department must take reasonable steps to promptly correct any overpayment of public assistance benefits, whether due to department or client error. BAMs 700, 705, 715, and 725. An agency error OI is caused by incorrect actions by DHS, DIT staff, or department processes. BAM 705, p. 1. In general,

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agency error OIs are not pursued if OI amount is under \$500.00 per program. BAM 705, pp. 1-3. The policy officially changed to allow recoupment under \$125.00 effective January 1, 2010. In this case the amount of the over issuance exceeds \$500 dollars so the department is entitled to pursue the FAP over issuance involved in this matter.

In the subject case, the Department issued FAP benefits without including the current income received by the Claimant's FAP group based on the Departments failure to include the updated earned income in the budget. The undersigned has reviewed the FAP budgets for the entire period and found that there was an over-issuance and that the Department is entitled to a recoupment in the amount of \$2,072. Accordingly, the Department's action for OI and recoupment of the Claimant's FAP benefits is correct and the Department is entitled to recoupment and to initiate collection procedures in accordance with Department policy.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department properly calculated the Claimant's FAP benefits to be over issued in the amount of \$2,072, that the Claimant received an over issuance in FAP benefits in the amount of \$2,071 and is entitled to a recoupment in that amount.

It is, therefore, ORDERED:

1. That the claimant shall reimburse the Department for the FAP over issuance in the total sum of \$2,072.
2. That the Department is entitled to, and shall initiate collection procedures in accordance with Department policies.



Lynn M. Ferris
Administrative Law Judge
For Ismael Ahmed, Director
Department of Human Services

Date Signed: 11/29/2010

Date Mailed: 11/29/2010

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NOTICE: The law provides that within 60 days from the mailing date of the above decision the Respondent may appeal it to the circuit court for the county in which he/she resides or has his or her principal place of business in this state, or in the circuit court for Ingham County. Administrative Hearings, on its own motion, or on request of a party within 60 days of the mailing date of this Hearing Decision, may order a rehearing.

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