

STATE OF MICHIGAN  
MICHIGAN ADMINISTRATIVE HEARING SYSTEM  
ADMINISTRATIVE HEARINGS FOR THE  
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

Issue

[REDACTED]

Reg. No.: 2007-24242

No.: 3052

Case No.: [REDACTED]

Hearing Date: November 10, 2010

DHS County: Macomb (36)

**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 the Department's request for a hearing. After due notice, a hearing was held on November 10, 2010.

**ISSUE**

Was the claimant properly determined to have an overissuance in the FAP program of \$3,206?

**FINDINGS OF FACT**

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

- (1) Claimant was an FAP recipient in Macomb County.
- (2) In April 2006, the Department's budget showed that claimant was due \$383 in FAP benefits.
- (3) The Department had incorrectly budgeted claimant's income.
- (4) In subsequent months, only UCB benefits were budgeted, but claimant still had employment income.
- (5) In April, 2007, the Department subsequently determined that claimant had an overissuance of \$3,206 in FAP benefits from the months of April, 2006 through January, 2007.

- (6) The Department admitted that this was an agency error, and would be recouped as such.
- (7) In April, 2007, the agency requested a hearing to establish the recoupment.
- (8) A hearing was held on November 10, 2010 before the Administrative Law Judge during a telephone hearing held in Detroit, Michigan; the Department participated from a hearing room located at the Department of Human Services office in Macomb County, District 36 and claimant did not appear.

### **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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

Clients must report changes in circumstance that potentially affect eligibility or benefit amount. BAM 105.

A client/CDC provider error overissuance (OEI) 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. BAM 715. This includes failing to report a change. An agency error OEI is caused by incorrect actions (including delayed or no action) by DHS or Department processes. BAM 705. When a client group receives more benefits than they are entitled to receive, DHS must attempt to recoup the overissuance. BAM 700.

In the current case, the Department contends that while the claimant had reported her income as required by policy, this income was incorrectly budgeted by the Department, and claimant was issued more FAP benefits than she was legitimately entitled to; these benefits need to be recouped.

Upon reviewing the supplied budgets, the undersigned finds serious error with the Department calculations. Most of the overissuance budgets supplied were calculated by placing claimant's income that was mistakenly not budgeted in the "unreported earned income category". This category is used to penalize unreported earned income, which is income that is not reported by client error or IPV. Claimant's mis-budgeted income was admitted to be agency error; the evidence in the case file agrees with this admission. Agency error, by definition, cannot include unreported earned income, because, as the agency made the mistake by failing to budget, the income must have been reported. Claimant is entitled to the 20% deduction for reported earned income on these amounts.

Therefore, while claimant was almost certainly overissued FAP benefits, the Department's calculations are wrong, and all budgets must be recalculated, by including claimant's earned income totals in the "reported earned income" section of the budget, before recoupment can be authorized.

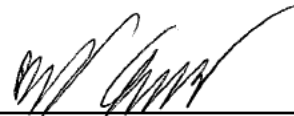
**DECISION AND ORDER**

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department has failed to prove the correct overissuance amount.

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

Recoupment of FAP benefits in the amount of \$3206 is DENIED.

Robert



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J. Chavez  
Administrative Law Judge  
for Maura Corrigan, Director  
Department of Human Services

Date Signed: July 14, 2011

Date Mailed: July 14, 2011

**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/cel

cc:

