

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.: 200720631
Issue No.: 3052
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: July 28, 2010
Muskegon County DHS (61)

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 held on July 28, 2010. The claimant appeared and testified; [REDACTED] also appeared and testified on behalf of Claimant. On behalf of Department of Human Services (DHS), [REDACTED], Manager, and [REDACTED], Recoupment Specialist, appeared and testified.

ISSUE

Whether DHS may recoup \$724 in over-issued Food Assistance Program (FAP) benefits caused by client error in reporting 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. Claimant applied for FAP benefits on 10/4/01. Exhibit 6.
2. Claimant listed himself, [REDACTED] and [REDACTED] as household members on the Assistance Application (DHS-3503).
3. The DHS-3503 indicated that [REDACTED] was Claimant's girlfriend.
4. Tamika received worker's compensation payments.
5. Claimant did not report [REDACTED] worker compensation income on the DHS-3503.

6. The failure of reporting [REDACTED] worker's compensation income resulted in an over-issuance of \$724 in FAP benefits over the period 1/2002-4/2002.
7. On 6/21/07, DHS mailed Claimant a Notice of Over-Issuance of FAP benefits. Exhibit 3.
8. On 6/22/07, Claimant submitted a hearing request disputing the recoupment of FAP benefits.

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 Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

PAM 700 defines benefit over-issuances (OI) as the amount of benefits issued to a client group in excess of what they were eligible to receive. Over-issuances are categorized as agency caused or client caused. The distinction matters little as both types of over-issuances may be recouped if the over-issuance exceeds \$500. Recoupment is an action to identify and recover a benefit. *Id.*

DHS contends that Claimant was over-issued FAP benefits between 1/2002-4/2002. DHS contends that Claimant never reported worker compensation income for a FAP group member, [REDACTED] (previously [REDACTED]); as a result of Claimant's failure to report the income, Claimant was over-issued \$724 in FAP benefits.

Claimant and [REDACTED] contended that they did not live with each other during the time of 1/2002-4/2002. In response, DHS submitted an Assistance Application (Exhibit 6) that was signed by Claimant on 10/4/01. On page 2 of the application Claimant, [REDACTED] and Claimant's son were each listed as household members for [REDACTED], an address not previously mentioned by Claimant or [REDACTED]. A 3/2002 bank statement for [REDACTED] also listed [REDACTED] as her address.

When confronted with this information, Claimant and [REDACTED] then testified that the interviewing DHS specialist told [REDACTED] to list herself on the application or [REDACTED] would not receive any benefits. This testimony was not credible. Claimant and [REDACTED] were afforded an opportunity to submit documents which would support their testimony about living at separate residences, neither accepted the opportunity.

Claimant's and [REDACTED] testimonies were contradicted by an Assistance Application signed by Claimant and completed by [REDACTED]. It is found that Claimant and [REDACTED] lived together at the time of Claimant's 10/4/01 application.

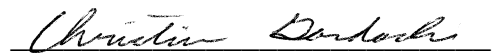
[REDACTED] initially denied receiving worker's compensation income between 1/2002-4/2002. DHS submitted a 3/2002 bank statement showing weekly payments of [REDACTED] worker's compensation payments. [REDACTED] subsequently conceded that she received worker's compensation income at the time of 1/2002-4/2002. It is found that [REDACTED] received worker's compensation from 1/2002-4/2002.

DHS submitted over-issuance budgets for each month where FAP benefit recoupment was sought. DHS properly calculated Claimant's proper FAP issuance adjusted to include the previously unreported worker's compensation income. The undersigned has looked over the budgets and finds the budgets to be accurately calculated. It is found that DHS is entitled to recoupment of \$724 in FAP benefits due to client error.

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 properly sought recoupment of FAP benefits in the amount of \$724.

/s/


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

Date Signed: August 4, 2010

Date Mailed: August 4, 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 90 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing 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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