

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

IN THE MATTER OF:

[REDACTED]

Reg. No. 2007-26246
Issue No. 3052
Case No. [REDACTED]
Hearing Date: August 29, 2011
Monroe County DHS

ADMINISTRATIVE LAW JUDGE: Colleen M. Mamelka

HEARING DECISION

This matter is before the undersigned Administrative Law Judge upon Claimant's request for a hearing made pursuant to MCL 400.9 and MCL 400.37, which govern the administrative hearing and appeal process. After due notice, a hearing was held in Monroe, Michigan on Monday, August 29, 2011. The Claimant appeared and testified. The Claimant was represented by [REDACTED]. [REDACTED] appeared on behalf of the Department of Human Services ("Department"). [REDACTED] observed the proceedings.

ISSUE

Whether the Department properly found an over-issuance of food benefits ("FAP") in the amount of \$3,167.00 for the period from June 2006 through March 2007 based on Department error?

FINDINGS OF FACT

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

1. The Claimant is a FAP recipient.
2. In February 2006, the Department improperly removed the Claimant's daughter's social security income from the Claimant's FAP budget.
3. As a result, the Claimant's received an over-issuance of FAP benefits for the period from June 2006 through March 2007. (Exhibit 1, pp. 23 – 46)

4. On July 11, 2007, the Department sent a Notice of Over-issuance, a Repayment Agreement (notifying the Claimant that her FAP benefits would be reduced effective August 2007), and an Over-issuance summary. (Exhibit 1, pp. 18 – 20)
5. On July 18, 2007, the Department received the Claimant's timely written request for hearing.

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. The Department of Human Services, formerly known as the Family Independence Agency, administers the FAP program pursuant to MCL 400.10 *et seq.*, and the Michigan Administrative Code Rules 400.3001-3015. Department policies are found in the Bridges Administrative Manual ("BAM"), the Bridges Eligibility Manual ("BEM"), and the Bridges Reference Tables ("RFT").

In this case, the Department seeks recoupment of an over-issuance of FAP benefits due to Agency error. An over-issuance ("OI") occurs when a client group receives more benefits than they are entitled to receive. BAM 700. A claim is the resulting debt created by the over-issuance of benefits. BAM 700. Recoupment is an action to identify and recover a benefit OI. BAM 700. 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 Department, DIT staff, or Department processes. BAM 705. In general, agency error OIs are not pursued if OI amount is under \$125.00 per program. BEM 705.

In this case, the Department notified the Claimant of a \$3,167.00 FAP over-issuance of benefits for the period from June 2006 through March 2007 based on Department error. Despite the fact that the Claimant timely requested a hearing, which should have prevented the commencement of the recoupment process until a hearing was held, the Claimant's FAP benefits were reduced as a result of the recoupment effective August 2007. Although the reduction of FAP benefits should not have initiated in August 2007, this error is harmless because an FAP over-issuance occurred. Ultimately, the Department established it acted in accordance with Department policy when it determined a FAP OI due to Department error. Accordingly, the Department's actions are AFFIRMED.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law finds that the Claimant received a \$3,167.00 FAP over-issuance for the period from June 2006 through March 2007 due to Department error.

Accordingly, it is ORDERED:

1. The Department's determination of a \$3,167.00 FAP over-issuance is AFFIRMED.
2. The Claimant shall be required to reimburse the Department the FAP benefits ineligibly received, due to Department error, in the amount of \$3,167.00 (less any repayments already received) for the period from June 2006 through March 2007 in accordance with Department policy.

Colleen M. Mamelka

Colleen M. Mamelka
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: August 31, 2011

Date Mailed: August 31, 2011

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.

CMM/cl