

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg No: 2007 30025
Issue No: 4060
Case No: [REDACTED]
Hearing Date:
February 16, 2011
Oakland County DHS (02)

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 conducted from Detroit, Michigan on February 16, 2011. The Claimant appeared and testified. Jan Carroll, Recoupment Specialist appeared on behalf of the Department.

ISSUE

Whether the Department is entitled to a recoupment of the Claimant's FAP benefits in the amount of \$624 for a FAP over-issuance for the period from 8/06 through 12/06 due to Agency Error arising from the Department's failure to properly include Claimant's earnings as weekly earnings instead of bi weekly earnings.

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 was an active Food Assistance Program (FAP) benefits recipient during the period August 1, 2006 through December 31, 2006.

2. The Department sought a recoupment due to an over-issuance of FAP benefits in the amount of \$624 (FAP). Exhibit 3 and Exhibit 6.
3. The period of over-issuance began August 1, 2006 and ended December 31, 2006.
4. The Claimant provided the Department earned income verification from her employer and correctly reported her earnings. The Claimant also did not dispute that she received the FAP benefits as set forth in Exhibit 2 and Exhibit 5.
5. The Claimant was over-issued FAP benefits in the amount of \$624 during the period. Exhibit 5 and 6.
6. The Department erroneously included the Claimant's weekly income as bi weekly income when calculating the Claimant's FAP benefit entitlement, and thus committed an Agency Error with regard to the calculation.
7. The Department provided monthly budgets for the period of over-issuance, August 2006 through December 31, 2006, which calculated the correct FAP benefits the claimant should have received. During the period in question, the Claimant was not entitled to receive all of the FAP benefits which she received. Exhibit 3 and Exhibit 4 pages 1 through 10.
8. The Budgets as calculated by the Department are correct. Exhibit 4.
9. On August 30 2007, the Department received the Claimant's written request for a hearing protesting the proposed request for over-issuance and collection of the Claimant's FAP benefits.

CONCLUSIONS OF LAW

The Food Assistance Program, 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"), formally known as the Family Independence Agency, administers the FAP program pursuant to MCL 400.10, *et seq* and MAC R 400.3001-3015. Departmental policies are found in the Bridges Administrative Manual ("BAM"), the Bridges Eligibility Manual ("BEM"), and the Reference Table ("RFT").

In this case, the Department seeks recoupment of an over-issuance of Food Assistance benefits (FAP) due to the Department's failure to include the correct amount of the Claimant's weekly earned employment income which was earned weekly but computed by the department as being earned bi weekly earnings.

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. Recoupment 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. BAM 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, agency error OIs are not pursued if OI amount is under \$500.00 per program. BAM 705, pp. 1-3. In this case the amount of both 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 paid the Claimant FAP benefits and did so based upon incorrect income when it counted weekly income as being earned bi weekly when budgeting the FAP benefits. The Claimant made no error and provided the Department with the correct earnings information. The undersigned has reviewed the FAP budgets for the entire period and the over-issuance summaries and finds that there was an over-issuance and that the Department is entitled to a recoupment in the amount of \$624 in FAP benefits. 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 \$624 and that the Claimant received over issuances in FAP benefits in the amount of \$624, and that the Department is entitled to a recoupment in that amount.

It is, therefore, ORDERED:

1. That respondent reimburses the Department for the FAP over issuance in the total sum of \$624.
2. That the Department is entitled to and shall initiate collection procedures in accordance with Department policies.


Lynn M. Ferris
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 02/28/11

Date Mailed: 03/01/11

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.

LMF/dj

cc:

