

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF: [REDACTED],
Claimant

Reg. No: 2008-24515
Issue No: 3052;1030
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
July 23, 2009
Genesee County DHS

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 claimant's request for a hearing. After due notice, a hearing was held on July 23, 2009.

ISSUE

Was the claimant properly determined to have an overissuance in the FAP and FIP programs of \$1056 and \$1467 respectively?

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 a FAP and FIP recipient in Genesee County.
- (2) On October 5, 2007, claimant informed DHS that she was receiving earned income.
- (3) No action was taken on the case until May 12, 2008.

- (4) The Department subsequently determined that claimant had an overissuance of \$1056 in FAP benefits.
- (5) The Department also determined that claimant had an overissuance of \$1467 in FIP benefits.
- (6) The Department admitted that this was an agency error, and would be recouped as such.
- (7) On June 17, 2008, claimant requested a hearing, alleging that she should not have to pay the money back because she had fulfilled her obligations to the Department.

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

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

A client/CDC provider error overissuance (OI) 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. PAM 715. This includes failing to report a change. An agency error OI is caused by incorrect actions (including delayed or no action) by DHS or department

processes. PAM 705. When a client group receives more benefits than they are entitled to receive, DHS must attempt to recoup the overissuance. PAM 700.

Agency error OI's are not pursued if the estimated OI amount is less than \$500 per program. Client error OIs are not established if the OI amount is less than \$125, unless the client is active for the OI program or the OI is a result of a Quality Control (QC) audit finding. PAM 700.

In the current case, the Department contends that while the claimant did report changes to her income as required by policy, no action was taken by the Department, and claimant was issued more FAP and FIP benefits than she was legitimately entitled to; these benefits need to be recouped. Claimant contends that she reported the change in her income, and should not have to pay back the overissuance because of a caseworker mistake.

Unfortunately, even though claimant did report, and the Department made a mistake, this does not change the recoupment prospects. PAM 700 states that the Department must pursue any OI that was the result of agency error if the amount is above \$500. Claimant's OI is above that amount. Therefore, the OI must be recouped, regardless of whose fault the error was.

Claimant also requested that because the recoupment limit was \$500 for agency errors, that the first \$500 should not be recouped. There is no support in policy for this interpretation. PAM 700 simply states that the Department must pursue a recoupment for agency errors over \$500. It does not say that the agency is to recoup the amount of the overissuance that is above \$500. Therefore, the entire amount must be recouped.

However, the OI amount requested for recoupment is incorrect. The undersigned has reviewed all budgets and found numerous errors.

With regard to claimant's FIP recoupment, according to PEM 519, claimant would have termed to E-FIP when her FIP eligibility ended due to employment. This would have given claimant a grant amount of \$10 per month during the time period in question. The Department's budgets show that for the three months in question, claimant was entitled to \$0 in FIP allocations. However, because claimant would have been termed to E-FIP, claimant would have received \$10 in FIP allocations per month for those three months. Therefore, claimant's actual overissuance in FIP allocations is \$1437, not \$1467 as budgeted.

With regard to claimant's FAP recoupment, claimant failed the gross income test for the months of December, 2007, and January, 2008 in her FAP budget. This means that claimant was not entitled to an FAP allocation for those months, and the full FAP amount should be recouped. RFT 250. However, in February 2008, the Department had claimant's earned income marked as \$883. Claimant's actual income for that month was \$821. It appears the \$883 amount was arrived at by using a prospective budgeting method—i.e. averaging claimant's 2 paychecks that month and then multiplying by 2.15. However, because improper budgeting caused the OI, actual income must be used. PAM 705. Claimant's actual income for that month was \$821.

Furthermore, the Department added into the budget claimant's FIP allocation. However, because claimant's FIP allocation is going to be recouped, that amount should not be figured in, as claimant will be paying it back. Instead, claimant's actual FIP amount for that month, \$10, should be used. Thus, claimant's actual adjusted gross income for the month would be \$542, not \$1070 as originally calculated.

After taking into account all other expense deductions, the Administrative Law Judge has determined that claimant actually had a net income of \$111 during the month of February, 2008—not \$680 as originally calculated. An FAP group with a group size of 3 and a net income

of \$111 was eligible in February, 2008, for a benefit amount of \$392. Claimant actually received \$426. Therefore, the actual FAP overissuance for that month was \$34, not \$204 as the Department originally calculated.

Therefore, adding claimant's FAP overissuances together means that the Department is eligible to recoup \$886 in FAP benefits from claimant, not \$1056 as originally calculated.

DECISION AND ORDER

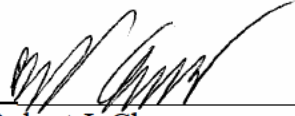
The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the claimant was the recipient of an overissuance of FAP benefits in the amount of \$886. Therefore, the Department's decision to initiate recoupment of claimant's FAP overissuance was correct. The Administrative Law Judge also decides that the claimant was the recipient of an overissuance of FIP benefits in the amount of \$1437. Therefore, the Department's decision to initiate recoupment of claimant's FIP overissuance was correct.

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

Recoupment of FAP benefits in the amount of \$886 is authorized.

Recoupment of FIP benefits in the amount of \$1437 is authorized.

The Department is ORDERED to initiate recoupment of the overissuance, per the regulations contained in PAM 700 pertaining to Agency Error.



Robert J. Chavez
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 01/21/10

Date Mailed: 01/22/10

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.

RJC/dj

cc:

