

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.: 20089735
Issue No.: 3052
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: October 13, 2010
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

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 October 13, 2010. The Claimant appeared and testified. [REDACTED], Recoupment Specialist appeared on behalf of the Department.

ISSUE

Was the Department correct in determining an overissuance of Claimant's FAP benefits and for seeking recoupment?

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 ongoing recipient of FAP benefits.
- (2) On February 4, 2008 the Department determined that overissuance occurred due to Department error. The agency failed to budget income timely.
- (3) Claimant received overissuances in the amount of \$725 between May 2007 and September 2007 under the FAP program due to Agency error.
- (4) Claimant requested a hearing on February 11, 2008 contesting the overissuance determination and recoupment of 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”), formerly 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 Program Reference Manual (“PRM”).

When a client group receives more benefits than they are entitled to receive, DHS must attempt to recoup the over issuance (OI) if the overissuance is greater than \$125. BPB 2010-005. The amount of the OI is the amount of benefits the group or provider actually received minus the amount the group was eligible to receive. BAM 720, p. 6.

In the present case, Claimant received \$775 in FAP benefits between February 2008 and March 2008 which she was only entitled to \$50, due to agency error. Therefore Claimant received an overissuance of \$725. The agency failed to budget income timely. Claimant credibly testified that she knew that the Department had failed to process her increase in income and brought it to the Department’s attention. Claimant was told directly by a Department worker to use the benefit, even though it was clear that the Department made a mistake. This should not have happened, and if there was a way to remedy this mistake this Administrative Law Judge would correct it.

Department policy is very clear that overissuances over \$125 are recouped even when it is result of agency error. BAM 720. Claimant questioned the fairness of recouping benefits for agency error. It is unfair, especially considering the circumstances in this case but this Administrative Law Judge has no authority to override Department policy. Therefore the Department’s determination of overissuance and imposition of recoupment is proper and correct.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that Claimant received overissuances in FAP program benefits of \$725 due to agency error, and it is ORDERED that the Department’s decision in this regard be, and is hereby AFFIRMED.

Aaron McClintic
Administrative Law Judge
For Ismael Ahmed, Director
Department of Human Services

20089735/AM

Date Signed: _____

Date Mailed: _____

NOTICE: The law provides that within 60 days from the mailing date of the above decision the Respondent may appeal it to the circuit court for the county in which he/she resides or has his or her principal place of business in this state, or in the circuit court for Ingham County. Administrative Hearings, on its own motion, or on request of a party within 60 days of the mailing date of this Hearing Decision, may order a rehearing.

AM/hw

cc:

