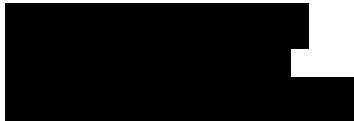


STATE OF MICHIGAN  
MICHIGAN ADMINISTRATIVE HEARING SYSTEM  
ADMINISTRATIVE HEARINGS FOR THE  
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg No: 2008 16182  
Issue No: 4060, 3052  
Case No: [REDACTED]  
Hearing Date:  
June 15, 2011  
Muskegon County DHS

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 June 15, 2011. The Claimant appeared and testified. Katherine Alward, Recoupment Specialist appeared on behalf of the Department.

ISSUE

Whether the Department is entitled to collect an overissuance of the Claimant's FAP benefits in the amount of \$539 for a FAP over-issuance for the period from 3/1/06 through 7/30/06.

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 (FAP) recipient during the period 3/1/06 through 7/30/06.

2. The Department seeks a recoupment due to an over-issuance of FAP benefits in the amount of \$539. Exhibit 2
3. The Department claimed that the Claimant was over-issued FAP benefits for the following months: March, May, June and July 2006. Exhibit 2.
4. The Department provided monthly budgets for the period of over-issuance, March 2006 through July 2006, which calculated the correct FAP benefits the claimant should have received.
5. During the period of June and July 2006, the Claimant was not entitled to receive the FAP benefits he did receive as he was living with his wife who had earned income.
6. The claimant suffered a stroke in [REDACTED] and was living with his brother for the period March 2006 through May 2006. During the period, the Claimant and his wife were separated and he was not living with his wife. The Claimant was living at [REDACTED].
7. At the time of the Claimant's March 2007 application, the Claimant indicated in the application that he and his wife were separated.
8. The Department did not establish that the Claimant and his spouse were living together in March and May 2006.
9. The Claimant confirmed that he began to live with his wife again in [REDACTED] [REDACTED] and reported his wife and daughter were living in the home when he reapplied on June 23, 2006 and reported that his wife received earnings.

10. The Department is not entitled to recoup FAP benefits for March 2006 in the amount of \$83, and for May 2006, in the amount of \$152 as there was no overissuance. Exhibits pages 14-15 and 16-17.
11. The Budgets for June and July 2006, as calculated by the Department, are correct. Exhibits 18-19 and 20-21.
12. On March 6, 2008, the Department received the Claimant's written request for a hearing protesting the proposed request for debt collection of the Claimant's FAP benefits stating he and his wife were not together at the time he applied for 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 to recover an over-issuance of Food Assistance benefits (FAP) for the months of March, May, June and July 2006.

The claimant suffered a severe stroke and testified credibly that he lived with his brother after the stroke so he could be cared for in March and May. The Claimant also credibly testified that he and his wife began to live together again in [REDACTED]. Based

on the claimant's credible testimony, the Department did not establish its right to a recoupment of benefits for the months of March 2006 (\$82) and May 2006 (\$152) as the Claimant was not living in his marital home.

When the Claimant subsequently reapplied for FAP benefits on June 23, 2006, the Department acknowledged that the Claimant advised he was married and living with his daughter and wife. It is unclear why the Department then issued benefits without considering the Claimant's spouse income and thus it appears that there was an Agency error.

An over-issuance ("OI") occurs when a client group receives more benefits than they are entitled to receive. PAM 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. PAM 700, 705, 715, and 725.


An agency error OI is caused by incorrect actions by DHS, DIT staff, or department processes. PAM 705, p. 1. In general, agency error OIs are not pursued if OI amount is under \$500.00 per program. PAM 705, pp. 1-3. In this case the amount left after removing the FAP benefits for the months of March 2006 and May 2006 from the total overissuance of \$539 leaves a balance of \$274 which is less than \$500.00.

The undersigned has reviewed the FAP budgets for the entire period and the over-issuance summaries and finds that the Department is not entitled to seek a recoupment and has not established its right to seek a debt establishment for FAP benefits because the amount of the overissuance is under the \$500 threshold

established by PAM 700 and PAM 705. Therefore, the Department's request for recoupment and establishment of a debt is denied. Accordingly, because the Department's action for recoupment and debt establishment of the Claimant's FAP benefits was not supported by the evidence it presented at the hearing, the Department is not entitled 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, determines that the Department's request for recoupment and debt establishment is denied and REVERSED.

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

Date Signed: 06/22/11

Date Mailed: 06/24/11

**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:

