

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

IN THE MATTER OF:
Issue

[REDACTED]

Reg. No.: 2008-22933
No.: 4060
Case No.: [REDACTED]
Hearing Date: June 15, 2011
DHS County: Muskegon 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 did not appear. [REDACTED], Recoupment Specialist, appeared on behalf of the Department.

ISSUE

Whether the Department of Human Services (Department) is entitled to collect an over-issuance of the Claimant's Food Assistance Program (FAP) benefits in the amount of \$408 for a FAP over-issuance for the period from 12/1/07 through 2/30/08.

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 FAP benefits recipient and Family Independence Program (FIP) benefits recipient during the period 12/1/07 through 2/30/08.
2. During the same period the Department became aware that the Claimant was a fugitive felon and removed the Claimant from her FAP group. Exhibits 34-35 and 12.
3. The Department sought a recoupment due to an over-issuance of FAP benefits in the amount of \$408. Exhibit 38.

4. The Claimant requested a hearing regarding the Department's determination that she was a fugitive felon but did not appear at the hearing; therefore the Department's determination remained in effect. Exhibit 29.
5. The Claimant was over-issued FAP benefits during the period. Exhibits 42-47.
6. The Department provided monthly budgets for the period of over-issuance, December 2007 through February 29, 2008, which calculated the correct FAP benefits the Claimant should have received. During the period in question, the Claimant was not entitled to receive any FAP as she was disqualified but her child was not. The Department recalculated the FAP benefits for a one person group to determine the over-issuance amount and established a FAP over-issuance of \$408. Exhibits 42-47.
7. The Budgets as calculated by the Department are correct.
8. On May 7, 2007, the Department received the Claimant's written request for a hearing protesting the proposed request for debt collection of the Claimant's FAP benefits.

CONCLUSIONS OF LAW

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, 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 Reference Table ("RFT").

In this case, the Department seeks to recover an over-issuance of FAP during the period the Claimant was found to be a fugitive felon. The Department in accordance with policy found in PEM 203 relied upon information provided to it by the Office of Inspector General. Exhibit 35. The Claimant originally protested the Department's action removing her from her FAP group but did not appear at the hearing to make her case, and therefore the Department's determination of her status as a fugitive felon is established. The disqualification by the Department is supported by PEM 203, page 2 and lasts until the recipient is no longer subject to the warrant.

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. PAMs 700, 705, 715, and 725. A client error OI is caused by failure as in this instance to give incorrect or incomplete information to the Department and receives more benefits than

they were entitled. PAM 705, p1. In general, client error OIs are not pursued if OI amount is under \$125 per PAM 705, pp. 1-3. In this case the amount of both over-issuances exceeds \$408 so the Department is entitled to pursue the FAP over-issuance involved in this matter.

In the subject case, the Department established that it paid the Claimant FAP benefits during the period the Claimant was a fugitive felon. The Department further established that the Claimant was disqualified from receiving FAP benefits during the period it seeks to collect benefits over-issued to the Claimant. Therefore The Department has established its entitlement to collect a debt in the amount of \$408. 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 pursue a debt collection in the amount of \$408 in FAP benefits.

Accordingly, the Department's action seeking to establish its right to collect a debt from the Claimant for FAP benefits she was not entitled to receive is correct and the Department is 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, finds that the Department properly calculated the Claimant's FAP benefits to be over-issued in the amount of \$408 and that the Department is entitled to a seek recovery of that amount.

It is, therefore, ORDERED:

1. That the Claimant reimburses the Department for the FAP over-issuance in the total sum of \$408.
2. That the Department is entitled to and shall initiate the collection procedures in accordance with Department policies.



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

Date Signed: June 17, 2011

Date Mailed: June 17, 2011

2008-22933/LMF

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 she lives.

LMF/cl

cc:

