

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: 2008-26306

Issue No: 3020

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

June 16, 2010

Barry County DHS

ADMINISTRATIVE LAW JUDGE: Kevin Scully

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9, MCL 400.37, MCL 400.43(a), and MCL 24.201, et seq., upon a hearing request by the Department of Human Services (Department) to establish an overissuance of benefits to Claimant. After due notice was mailed to Claimant, a hearing was held on Wednesday, June 16, 2010, and Claimant did appear.

ISSUE

Did the Department of Human Services correctly determine that Claimant was over-issued [REDACTED] of Food Assistance Program (FAP) benefits during the months of January through May 2007?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

- (1) The Claimant applied for FAP benefits on August 7, 2006. Department Exhibit 7.
- (2) The Claimant provided verification of his income to the Department on September 11, 2006, and December 18, 2006. Department Exhibits 11 – 18.
- (3) Due to Department error, the Department failed to consider the Claimant's income to determine his monthly FAP allotment of [REDACTED] from January 1, 2007, through May 31, 2007. Department Exhibit 19.
- (4) The Department re-determined the Claimant's eligibility for FAP benefits, and concluded that it had issued a total of [REDACTED] in FAP benefits to the Claimant that he was not eligible to receive. Department Exhibits 31 – 41.
- (5) On July 3, 2008, the Department sent the Claimant notice of the overissuance of FAP benefits. Department Exhibits 42 – 45.
- (6) The Department received the Claimant's request for a hearing July 11, 2009, protesting the Department's recoupment of FAP benefits.

CONCLUSIONS OF LAW

The Food Assistance Program (FAP) (formerly known as the Food Stamp 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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), Reference Table Manual (RFT), and the Bridges Reference Manual (BRM).

An overissuance is the amount of benefits issued to the client group in excess of what they were eligible to receive. BAM 705. The amount of the overissuance is the amount of

benefits the group actually received minus the amount the group was eligible to receive. BAM 720. When a client group receives more benefits than they are entitled to receive, the Department must attempt to recoup the overissuance. BAM 700.

Department errors are caused by incorrect actions by the Department. BAM 705. Department error overissuances are not pursued if the estimated overissuance is less than \$125 per program. BAM 700. Client errors occur when the customer gave incorrect or incomplete information to the Department. Client errors are not established if the overissuance is less than \$125 unless the client group is active for the overissuance program, or the overissuance is a result of a QC audit finding. BAM 700.

The Claimant applied for FAP benefits on August 7, 2006. The Claimant provided the Department with verification of his income, but due to Department error, the Department did not use this income to determine his eligibility for FAP benefits from January 1, 2007, through May 31, 2007. When the Department discovered its error, it used the Claimant's correct income to re-determine his eligibility for FAP benefits. After entering the Claimant's income into his FAP budget, the Department determined that it had issued the Claimant a total of [REDACTED] that he was not entitled to receive.

The Claimant does not dispute the amount of FAP benefits he received, or the income the Department used to re-determine his eligibility for FAP benefits. The Claimant testified that the Department merely used the income figures that he had previously submitted to the Department and that if it had used these figures to determine his FAP allotment in 2007, an overissuance would not have occurred.

The Claimant argued that he fulfilled all of his responsibilities to the Department, and that he should not be punished for the Department's mistakes. The claimant's grievance centers

on dissatisfaction with the department's current policy. The claimant's request is not within the scope of authority delegated to this Administrative Law Judge. Administrative Law Judges have no authority to make decisions on constitutional grounds, overrule statutes, overrule promulgated regulations, or make exceptions to the department policy set out in the program manuals.

Furthermore, administrative adjudication is an exercise of executive power rather than judicial power, and restricts the granting of equitable remedies. *Michigan Mutual Liability Co. v Baker*, 295 Mich 237; 294 NW 168 (1940).

The Department has established that it acted according to policy when it determined that the Claimant was issued a total of [REDACTED] of FAP benefits that he was not entitled to receive due to Department error.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the Department of Human Services correctly determined that Claimant was over-issued [REDACTED] of Food Assistance Program (FAP) benefits during the months of January through May 2007.

It is ORDERED that the actions of the Department, in this matter, are UPHeld.

/s/ _____
Kevin Scully
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: June 25, 2010

Date Mailed: June 28, 2010

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 60 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt 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.

KS/vc

cc:

