

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: 2009-12855
Issue No: 3020
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
June 17, 2009
Macomb County DHS

ADMINISTRATIVE LAW JUDGE: Linda Steadley Schwarb

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 June 17, 2009. Claimant appeared and testified.

ISSUE

Does the Department of Human Services (DHS or department) properly plan to recoup an overissuance of claimant's Food Assistance Program (FAP) benefits?

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 has been an ongoing recipient of FAP benefits in group of one.
- (2) On September 18, 2007, claimant began working at [REDACTED] and did not report the income to the department as required.
- (3) The department discovered claimant's unreported income at the time of eligibility

redetermination in May of 2008.

(4) As a result of claimant's failure to report her income to the department, claimant was overissued \$646 in FAP benefits for the period from November of 2007 through May of 2008.

(5) The department's Office of Inspector General (OIG) opened an investigation into the matter and thereafter requested an Administrative Hearing to establish that claimant had committed an Intentional Program Violation and seek recoupment of the overissued FAP benefit.

(6) At the hearing, the OIG waived pursuit of an Intentional Program Violation and indicated that the department would be satisfied with establishment of an overissuance which could be recouped from claimant.

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).

Relevant to Departmental Policy in this matter is as follows:

RIGHTS AND RESPONSIBILITIES

Responsibilities to
Report Changes

Client's must report changes in circumstances that potentially affect eligibility or benefit amount. Changes must be reported within 10 days of receiving the first payment reflecting the change.

Income reporting requirements are limited to the Following:

- . earned income:
 - .. starting or stopping employment.
 - .. changing employers.
 - .. change in rate of pay.
 - .. change in work hours of more than 5 hours per week that is expected to continue for more than 1 month.

- . unearned income:
 - .. starting or stopping a source of unearned income.
 - .. change in gross monthly income of more than \$50 since the last reported change. PAM, Item 105, page 7.

**BENEFIT
OVERISSUANCES**

When a client receives more benefits than they are entitled to receive, DHS must attempt to recoup the overissuance (OI). ...

An overissuance (OI) is the amount of benefits issued to the client group or CDC provider in excess of what they were eligible to receive. PAM, Item 700, page 1.

**OVERISSUANCE
THRESHOLD**

Agency error OIs are not pursued if the established 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 or provider is active for the OI program, or
- . the OI is the result of a Quality Control (QC) audit finding. PAM, Item 700, page 7.

In this case, claimant failed to report her new income to the department. This client error resulted in an overissuance of FAP benefits in the amount of \$646 for the period from November of 2007 through May of 2008. The undersigned Administrative Law Judge has carefully reviewed the revised budgets for the period in question and finds that the department has

properly calculated the amount of the FAP overissuance. The department is required per policy to recoup these overissuances. Accordingly, the department properly proposes to initiate administrative recoupment of claimant's overissuance FAP benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department of Human Services properly plans to recoup an overissuance of claimant's Food Assistance Program benefits. Accordingly, the department's proposed action in this matter is hereby AFFIRMED.

/s/ _____
Linda Steadley Schwarb
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 10/22/09 _____

Date Mailed: 10/26/09 _____

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 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.

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cc:

