

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.: 2009-20884  
Issue No.: 3020  
Case No.: [REDACTED]  
Load No.: [REDACTED]  
Hearing Date:  
August 3, 2009  
Macomb County DHS (36)

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 August 3, 2009. The 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 is an ongoing recipient of FAP benefits in a group of 1.
- (2) On September 15, 2008, claimant filed a hearing request to protest the amount of her FAP allotment.
- (3) Following the hearing on February 26, 2009, the Honorable Judge [REDACTED] ordered the department to recalculate claimant's FAP allotment from September 2008 to date.

- (4) Thereafter, in April 2009, the department recalculated claimant's FAP allotment for the period from September 2008 through April 2009. The department counted claimant's child support and SSI income and provided medical expense and shelter expensive deductions based upon verifications provided.
- (5) For the period from September 2008 through April 2009, the department found that claimant had been over issued \$638 in FAP benefits as the result of agency error.
- (6) On April 6, 2009, the department notified claimant of the overissuance and provided an explanation of the various repayment options. The notice to claimant indicated that if claimant did not file a request for hearing by April 21, 2009, the department would initiate recoupment activities.
- (7) On April 13, 2009, claimant filed a timely hearing request to protest the department's proposed recoupment action.
- (8) Thereafter, the department deleted its purposed recoupment activities pending the outcome of the instant hearing.
- (9) The department in recalculating claimant's FAP budgets from September 2008 through April 2009 correctly calculated claimant's countable income and provided allowable deductions which claimant was entitled to receive.

#### 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).

When determining eligibility for FAP benefits, the household's total income must be evaluated. All earned and unearned income of each group member must be included unless it is specifically excluded. Program Eligibility Manual, Item 500. The FAP program provides a deduction from earned income of 20% and a deduction for the cost of child care when necessary to enable a FAP household member to work. A standard deduction from income of \$135 is allowed for each household. See RFT Item 255. Certain non-reimbursable medical expenses above \$35 a month may be deducted for senior/disabled/veteran group members. Another deduction from income is provided if monthly shelter costs are in excess of 50% of the household's income after all of the other deductions have been allowed, up to a maximum of \$446 for non-senior/disabled/veteran households. Program Eligibility Manual, Items 500 and 554; Program Reference Manual, RFT 255; 7 CFR 273.2.

In this case, the Administrative Law Judge has reviewed the FAP budgets prepared by the department for the period from September 2008 through April 2009 and finds that the department properly computed the claimant's net income. The federal regulations at 7 CFR 273.10 provide standards for the amount of a household's benefits. The department in compliance with the federal regulations has prepared issuance tables which are set forth at Program Reference Manual, Table 260. In reviewing the department's revised FAP budgets for claimant from September 2008 through April 2009, the undersigned Administrative Law Judge finds that the department has correctly calculated claimant's FAP allotments for the months in question.

Relevant departmental policy in this matter with regard to recoupment of overissuances is as follows:

When a client group receives more benefits than they are entitled to receive, DHS must attempt to recoup the overissuance (OI). PAM item 700, page 1.

The amount of the OI is the benefit amount the group actually received minus the amount the group was entitled to receive. PAM item 705, page 5.

Agency error OIs are not pursued if the estimated OI amount is less than \$500 per program. PAM item 705, page 1. Also see 7 CFR 272.8.

In this case, the department incorrectly calculated the amount of claimant's FAP allotment from September 2008 through April 2009. This resulted in an overissuance of FAP benefits to claimant in the amount of \$638. Per policy, the department is required to recoup this overissuance. Accordingly, the department properly proposes to initiate administrative recoupment of claimant's over issued 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 proposes to initiate recoupment of over issued 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: 08/11/09

Date Mailed: 08/12/09

**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 the Circuit 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.

LSS/jlg

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