

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: 2009-26540

Issue No: 3023, 3052

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

July 21, 2009

Wayne County DHS

ADMINISTRATIVE LAW JUDGE:

Steven M. Brown

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 telephone hearing was conducted from [REDACTED] on July 21, 2009.

ISSUE

Whether the Department properly recouped Claimant's Food Assistance Program (FAP) benefits overissuance?

FINDINGS OF FACT

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

- (1) Claimant is a FAP recipient.
- (2) Claimant had a FAP overissuance balance of [REDACTED] As a result, the Department withheld [REDACTED] of his monthly FAP allotment on 1/22/09, [REDACTED] on 2/1/09,

████ on 3/1/09, \$16 on 4/1/09 and █████ on 5/1/09 towards his overissuance balance.

(Exhibits 2, 3, 4)

(3) Claimant's unemployment benefits ended in March 2009. Claimant, therefore, was entitled to an increase in his FAP benefits and the Department ended up issuing Claimant a FAP supplement of █████ for March, April and/or May. The █████ was placed on his card, but was removed in its entirety on 5/6/09 towards his overissuance balance. (Exhibits 2, 3, 4)

(4) On May 18, 2009, the Department received the Claimant's hearing request protesting the recoupment of his FAP benefits overissuance.

#### 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. Departmental policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM), and the Program Reference Manual (PRM).

Active programs are subject to Administrative Recoupment (AR) for repayment of overissuances. AR continues until program closure or all collectible overissuances are repaid. AR automatically resumes when a program with an overissuance balance reopens. FAP benefits are reduced for recoupment by a percentage of the monthly FAP entitlement. AR occurs only on current month issuances and automatically changes when the monthly issuance amount changes. The standard AR percentage for FAP is 10% for

agency and client errors and 20% for an IPV. In addition to AR, FAP supplements to restore lost benefits are automatically offset when entered on CIMS to repay FAP overissuances. The restoration supplement is used in part or in whole to repay overissuances. PAM 725, p. 8-9.

Department policy states that a FAP supplement can be used in part or in whole to repay overissuances. It is not clear whether this means that it is discretionary or whether the Department uses the whole supplement if the overissuance balance is greater and only part of it if it is less. Either way, based on the testimony and documentation offered at hearing, I find that the Department established that it acted in accordance with policy in recouping Claimant's FAP benefits overissuance.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department acted in accordance with policy in recouping Claimant's FAP benefits overissuance.

Accordingly, the Department's FAP eligibility determination is AFFIRMED, it is SO ORDERED.

/S/  
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Steven M. Brown  
Administrative Law Judge  
for Ismael Ahmed, Director  
Department of Human Services

Date Signed: July 23, 2009

Date Mailed: July 23, 2009

**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.

SMB/db

cc:

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