

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. 2009-29689

Issue No. 3020

Case No. [REDACTED]

Load No. [REDACTED]

Hearing Date:

August 13, 2009

Oakland County DHS

ADMINISTRATIVE LAW JUDGE: Colleen Lack

HEARING DECISION

This matter is before the undersigned Administrative Law Judge upon pursuant to MCL 400.9; MCL 400.37 upon claimant's request for a hearing. After due notice, a telephone hearing was held on August 13, 2009 and claimant was not present. Claimant's wife, [REDACTED], appeared on claimant's behalf. Jan Carroll, Recoupment Specialist, appeared on behalf of the Department.

ISSUE

Is the department's proposed recoupment of the overissuance of Food Assistance Program (FAP) benefits correct?

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 a FAP recipient in a household of two persons.

2. Claimant provided a Shelter Verification showing that the monthly shelter obligation of \$765 was reduced to \$208 because of section 8. (Department Exhibit 2)
3. Department used the non-reduced rent of \$765 for the FAP budget resulting in an overissuance of \$1313 in FAP benefits for June 2008 through January 2009.
4. Department issued a Notice of Overissuance as well as the Agency and Client Error Information and Repay Agreement on June 8, 2009. (Department Exhibits 6 and 7)
5. Claimant requested a hearing on June 12, 2009 contesting the recoupment of the FAP benefits.

CONCLUSIONS OF LAW

The Food Assistance Program, 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”), formally 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 Program Administrative Manual (“PAM”), the Program Eligibility Manual (“PEM”), and the Program Reference Manual (“PRM”).

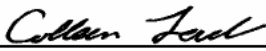
Under PAM 700, when a client group receives more benefits than they are entitled to receive, DHS must attempt to recoup the overissuance. PAM 700. An agency error overissuance is caused by incorrect action (including delayed or no action) by DHS, DIT staff, or department processes. PAM 705. Agency error overissuances are pursued if the estimated overissuance amount is \$500 or more per program. PAM 700.

In the present case, the department agrees that the overissuance was due to the department's error of using the incorrect shelter obligation amount of \$765 instead of the reduced rent of \$208. The department ran budgets for the months of June 2008 through January 2009 to determine the overissuance amount was \$1313. (Exhibit 4) The proposed recoupment is correct under PAM 700 because the over issuance totaled more than \$500.

Claimant argues that the overissuance was not his fault and that he is unable to pay the recoupment due to medical expenses and limited means. This Administrative Law Judge does sympathize with the claimant in the instance, but does not have the prerequisite jurisdiction to change or alter department policy and state law at the present time. This ALJ finds that the department has acted in accordance with department policy and law in the proposed recoupment for the overissuance of FAP benefits from June 2008 to January 2009.

DECISION AND ORDER

The ALJ bases upon the findings of fact and conclusions of law decides that the department's proposed recoupment of FAP benefits is correct and it is ordered that the Department's decision in this regard be and is hereby AFFIRMED.



Colleen Lack
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 09/10/09

Date Mailed: 09/10/09

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 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.

CL/dj

cc:

