

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: 2009-36665
Issue No: 3020
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
October 19, 2009
Macomb County DHS

ADMINISTRATIVE LAW JUDGE: Jeanne M. VanderHeide

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Claimant's request for hearing. After due notice, a telephone hearing was conducted from Detroit, Michigan on October 19, 2009. At the hearing, the Claimant was present and testified, Evelyn Reed, FIS appeared on behalf of the Department.

ISSUE

Whether the Department is entitled to recoup a \$1,152.00 FAP over-issuance for the period from November, 2008 through April, 2008 due to the Department's failure to remove Claimant's husband from the FAP group.

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 was an active FAP recipient.
2. Claimant testified that her husband moved out of the marital home in at the end of October, 2008. Claimant also testified that she left messages for her caseworker reporting the change.

3. The Department failed to take action to take Claimant's husband off the FAP group.
4. The Department recalculated the Claimant's FAP budget and determined there was an over-issuance of FAP benefits totaling \$1,152.00. (Exhibit 1, p. 1 & 2C).
5. The Department referred the case to a Recoupment Specialist ("RS") for investigation.
6. As a result of Agency error, the Claimant received a over-issuance for FAP for the period from November, 2008 through April, 2009.
7. The recoupment specialist was not present to testify at the hearing.
8. The Department failed to produce any budgets or other evidence supporting its position that Claimant should have received less FAP benefits.
9. The Department produced a budget dated 4/27/09 which did not include a shelter obligation or telephone utility charge. (Exhibit 2)
10. Claimant testified that she pays \$600.00/month for rent. All utilities are included in the rent other than telephone.
11. The Department sent a Notice of Over-issuance dated 6/3/09 to Claimant on July 28, 2009. (Exhibit 1, p. 2A).
12. On June 16, 2009, the Department received the Claimant's written request for a hearing protesting the proposed recoupment action.

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”).

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 8 USC 601, *et seq.* The Department of Human Services (formerly known as the Family Independence Agency) administers the FIP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3101-3131. The FIP program replaced the Aid to Dependent Children (ADC) program effective October 1, 1996. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

In this case, the Department seeks recoupment of an over-issuance of FAP benefits due to the Department’s failure to take Claimant’s husband off the FAP budgets once he moved out of the marital home. An over-issuance (“OI”) occurs when a client group receives more benefits than they are entitled to receive. PAM 700, p. 1. A claim is the resulting debt created by the overissuance of benefits (OI). Id. Recoupment is an action to identify and recover a benefit. Id. The Department must take reasonable steps to promptly correct any overpayment of public assistance benefits, whether due to department or client error. PAMs 700, 705, 715, and 725. An agency error OI is caused by incorrect actions by DHS, DIT staff, or department processes. PAM 705, p. 1. In general, agency error OIs are not pursued if OI amount is under \$500.00 per program. PAM 705, pp. 1-3.

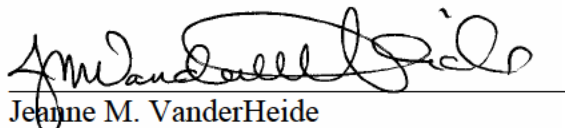
Based on the evidence and testimony presented on the record, the undersigned finds that the Claimant properly notified the Department that her husband had moved out of the marital home. The Department failed to properly input the change and the FAP continued as calculated with Claimant’s husband in the home. The failure of the Department allegedly resulted in a FAP

overpayment for the period November, 2008 through April, 2009. However, the recoupment specialist was not present to testify and no budgets were produced showing how the correct FAP amount was calculated. The undersigned is uncertain if the proper income, shelter obligation and utilities were used in the recoupment calculation. It is, therefore, impossible to determine whether there was an over-issuance over \$500.00 or if the recoupment amount is correct. The Administrative Law Judge finds that the Department failed to provide enough information to prove its case. Accordingly, the Department's FAP OI and recoupment action is dismissed without prejudice.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department did not provide sufficient evidence to prove that there was a collectible overissuance of benefits or the amount of same.

Accordingly, it is ORDERED that the OI and recoupment for FIP benefits is DISMISSED without prejudice.



Jeanne M. VanderHeide
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 11/13/09

Date Mailed: 11/17/09

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.

JV/dj

cc:

