

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Respondent

Reg. No: 2009-4911

Issue No: 3030

Case No:



Load No:

Hearing Date:

February 17, 2009

Iron County DHS

ADMINISTRATIVE LAW JUDGE: Tyra L. Wright

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon Respondent's request for a hearing. After due notice, a hearing was held on February 17, 2009. A recoupment specialist and an eligibility specialist represented the Department of Human Services (Department).

ISSUE

Did the Department act properly in trying to recover a Food Assistance Program (FAP) overissuance that respondent received due to department error?

FINDINGS OF FACT

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

- (1) Respondent has been a FAP for a group size of three that included his wife and son.

(2) The Department determined an overissuance of [REDACTED]. Respondent's benefits were not reduced due to his filing a timely hearing request.

(3) The Department contends that the overissuance occurred because Respondent failed to report that his son had been incarcerated [REDACTED]

(4) Respondent contends that he reported his son's incarceration within 10 days of his incarceration. Furthermore, Respondent asserted that he left voice messages for two different case workers. Respondent believed that one case worker had replaced the other case worker so he left messages for both.

(5) Respondent disagreed with the Department's proposed action to collect the overissuance on the grounds that he timely reported his son's incarceration.

(6) The Department received Respondent's hearing request, protesting the Department's determination that she repay the 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 (formerly known as the Family Independence Agency) 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).

The Department is required to specify uniform statewide policy for the recovery of the overpayment of program benefits. When a client receives more benefits than he/she is entitled to receive, the Department must take reasonable steps to promptly correct any overpayment of public assistance benefits, **whether due to department or client error**. (PAM Items 705, 720

and 725). A Department error overissuance is caused by incorrect actions by Department staff or processes. However, a Department error overissuance is not pursued if the estimated overissuance amount is less than \$500 per program. If the Department error overissuance is over \$500, within 90 days of determining that the overissuance occurred, the Department's recoupment specialist must obtain all evidence needed to establish the overissuance and calculate the Department error amount, establish the overissuance discovery date, send a DHS-4358A-D to the client. The recoupment specialist also must enter the overissuance on the Department's recoupment system to start collection and return an overissuance referral disposition to the ongoing worker, explaining the final disposition of the overissuance. (PAM, Item 705).

In this case, it is found that Respondent received an overissuance of FAP benefits due to Department error because he timely reported his son's incarceration. Whether the overissuance is due to Department error or Respondent's is not despositive here because the overissuance amount is less than \$500. Therefore, the Department's proposed recoupment action is denied.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department acted improperly in trying to recover an overissuance of FAP of less than \$500.

Accordingly, the Department's proposed FAP action is DENIED.


/s/ _____
Tyra L. Wright
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: February 23, 2009

Date Mailed: March 2, 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 of on the Department's motion where the final decision cannot be implemented within 60 days of the filing of the original request.

The Respondent 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.

TLW 

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