

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.: 2009-11642
Issue No.: 3052
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
April 1, 2009
Wayne County DHS [REDACTED]

ADMINISTRATIVE LAW JUDGE: Colleen M. Mamelka

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 a hearing. After due notice, a hearing was conducted from Detroit, Michigan on April 1, 2009. The Claimant appeared and testified. Minnie Egbuonu and Brenda Philpot appeared on behalf of the Department.

ISSUE

Whether the Department is entitled to recoup a \$640.00 FAP over-issuance for the period from December 2004 through March 2005 due to the Claimant's failure to report her actual gross earnings exceeded the monthly limit of \$1,313.00.

FINDINGS OF FACT

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

1. The Claimant submitted an application for public assistance seeking FAP benefits on May 19, 2004. (Exhibit 1)

2. The Claimant's earned income was budgeted based upon 25 hours a week at \$8.00 an hour. (Exhibit 2)
3. For the period at issue, December 2004 through March 2005, the Claimant's FAP allotment was \$170.00 monthly. (Exhibit 5)
4. The Claimant was instructed report whenever her monthly income exceeded \$1,313.00. (Exhibit 2)
5. On May 2, 2005, a quarterly MESC Wage Report established that for the last quarter of 2004, the Claimant's gross earnings were \$5,170.00 and were \$5,197.00 for the first quarter of 2005. (Exhibit 4)
6. Based upon the MESC Wage Report, the Claimant exceeded the \$1,313.00 monthly limit.
7. As a result, the Claimant received a \$640.00 FAP over-issuance for the period from December 2004 through March 2005.
8. On or about July 5, 2005, the Department forwarded the over-issuance to a recoupment specialist ("RS").
9. On October 23 2008, the RS attempted to verify the Claimant's gross earnings for the period at issue however, the business was sold and no records were left with the new owner. (Exhibits 6, 7)
10. On November 7, 2004, the Department sent a Notice of Overissuance to the Claimant. (Exhibit 8)
11. On November 19, 2008, the Department received the Claimant written request for hearing. (Exhibit 11)

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”).

In this case, the Department seeks recoupment of an over-issuance of FAP benefits due to the Claimant’s failure to report that her gross monthly earnings exceeded the \$1,313.00 limit. 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. PAM 700, p. 1 Recoupment is an action to identify and recover a benefit OI. PAM 700, p. 1 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

In the record presented, the Claimant failed to report her monthly gross earnings were in excess of her simplified reporting amount. As a result, the Claimant received a \$640.00 FAP over-issuance for the period from December 2004 through March 2005 which the Department is entitled to recoup. Accordingly, the Department’s actions are AFFIRMED.

DECISION AND ORDER

The Administrative Law Judge, based upon findings of fact and conclusions of law, finds that the Claimant received a \$640.00 FAP over-issuance for the period from December 2004 through March 2005 due to the Claimant's failure to report her gross earnings exceeded the simplified reporting monthly amount.

Accordingly, it is ordered:

1. The Department's determination of a \$640.00 FAP over-issuance is AFFIRMED.
2. The Claimant shall be required to reimburse the Department the FAP benefits ineligibly received, due to client, in the amount of \$640.00 for the period from December 2004 through March 2005 in accordance with department policy.

/s/

Colleen M. Mamelka
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 04/06/09

Date Mailed: 04/07/09

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.

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cc:

