

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Respondent

Reg No: 2009-15001

Issue No: 3020

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

March 25, 2009

Genesee 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 a hearing. After due notice, a telephone hearing was conducted from Detroit, Michigan on March 25, 2009. The Claimant appeared and testified at the hearing. Dawn Vuhlke, a Recoupment Specialist, appeared on behalf of the Department.


ISSUE

Whether the Department is entitled to recoup a \$1,763.00 FAP over-issuance for the period from November 2007 through June 2008 due to the Department's failure to properly list Claimant's income as weekly and the Department's failure to add a group member and include his reported income from employment.

FINDINGS OF FACT

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

1. On November 6, 2007, the Claimant submitted a public assistance application. (Exhibits 1, pp. 1-7).

2. The Claimant is a FAP recipient.
3. At the time of application, Claimant reported her weekly pay from employer .
4. The Claimant's income was budgeted as biweekly in error. (Exhibit 1, pp. 9-11).
5. The Department received a Semi Annual Contact form from the Claimant on 3/31/08 where the Claimant reported that the father of her child had moved into the home and that he had earned income. (Exhibit 1, pp. 8-9).
6. The Department failed to take action to add this mandatory member and his income.
7. The Department recalculated the Claimant's FAP budget and determined there was an over-issuance of FAP benefits totaling \$1,763.00. (Exhibit 1, pp. 12-28).
8. The Department referred the case to a Recoupment Specialist ("RS") for investigation.
9. As a result of Agency error, the Claimant received a FAP over-issuance for the period from November, 2007 through June 2008.
10. The Department sent a Notice of Over-issuance to Claimant on January 7, 2009. (Exhibit 1, pp. 39-42).
11. On January 30, 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”).

In this case, the Department seeks recoupment of an over-issuance of FAP benefits due to the Department’s failure to properly list Claimant’s income as weekly and the Department’s failure to add a group member and include his reported income from employment. 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 provided verification of her income and properly informed her caseworker that the pay was received weekly. The Department failed to properly input the income and the budget was calculated utilizing Claimant’s income as biweekly rather than weekly. The Department failed again when it did not add Claimant’s boyfriend and his income to the family budget after Claimant reported the change. These two failures of the Department resulted in an overpayment for the period November 2007 – June 2008 totaling \$1,763.00. Unfortunately, the overpayment is over \$500.00 and pursuant to Pursuant to PAM 705, the Department is entitled to recoupment. While this Administrative Law Judge does not necessarily agree with the Department policy, this Judge’s jurisdiction is limited to interpreting whether the Department followed the regulations. Accordingly, the Department’s OI and recoupment action is AFFIRMED.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department properly calculated the Claimant's FAP benefits to be overpaid in the amount of \$1,763 based on department error.

Accordingly, it is ORDERED that the OI and recoupment is AFFIRMED.

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

Date Signed: 04/07/09

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.

JV/dj

cc:

