

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: 2009-20521

Issue No: 3020

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

June 2, 2009

Macomb County DHS

ADMINISTRATIVE LAW JUDGE: Gary F. Heisler

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; and MCL 400.37 upon claimant's request for a hearing. After due notice, a hearing was held on June 2, 2009. Claimant appeared and testified.

ISSUES

(1) Did the Department of Human Services cause an over-issuance of Food Assistance Program (FAP) benefits to Claimant between May 1, 2008 and March 31, 2009 in the amount of \$3,294?

(2) Is the Department of Human Services entitled to recoup the \$3,294 over-issuance?

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 was an ongoing recipient of Food Assistance Program (FAP) benefits.

(2) On May 8, 2008, Claimant submitted an application for Food Assistance Program (FAP) benefits. On the application Claimant disclosed that she was receiving funds from the Social Security Administration for both her own Retirement, Survivors, Disability Insurance (RSDI) and a widow benefit. The Department case worked did not include the widow benefit in Claimant's Food Assistance Program (FAP) financial eligibility budget.

(3) On March 25, 2009, Claimant submitted an annual application for Food Assistance Program (FAP) benefits. On the application Claimant disclosed that she was receiving funds from the Social Security Administration for both her own Retirement, Survivors, Disability Insurance (RSDI) and a widow benefit. This time the Department case worked did include the widow benefit in the Food Assistance Program (FAP) financial eligibility budget. The Department caseworker then referred the case to a Recoupment Specialist as a suspected client error over-issuance for February and March 2009.

(4) On April 7, 2009, Claimant was sent a Notice of Over-Issuance for February and March 2009.

(5) On April 15, 2009, Claimant submitted a request for hearing. In the request Claimant described how she had reported all the income to her caseworker.

(6) Prior to this hearing the Recoupment Specialist discovered that Claimant had reported the income. The over-issuance was reclassified as agency error and recalculated to include the period of May 2008 through March 2009.

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 (DHS or department) 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).

None of the above facts are disputed. Claimant asserts she did not do anything wrong or make a mistake so she does not feel she should have to pay the over-issuance back. Department policy provides the following guidance for case workers. The Department's policies are available on the internet through the Department's website.

PAM 705 AGENCY ERROR OVERISSUANCES

DEPARTMENT POLICY

All Programs

Recoupment policies and procedures vary by program and overissuance (OI) type. This item explains agency error OI processing and establishment. [PAM 700](#) explains OI discovery, OI types and standards of promptness. [PAM 715](#) explains client error, and [PAM 720](#) explains Intentional Program Violations.

Definition

All Programs

An **agency error** OI is caused by incorrect actions (including delayed or no action) by DHS or DIT staff or department processes. Some examples are:

- Available information was not used or was used incorrectly.
- Policy was misapplied.
- Action by local or central office staff was delayed.
- Computer or machine errors occurred.
- Information was not shared between department divisions (services staff, Work First! agencies, etc.).
- Data exchange reports were not acted upon timely (Wage Match, New Hires, BENDEX, etc.). If unable to identify the type of OI, record it as an agency error.

AGENCY ERROR EXCEPTIONS

FIP, SDA, CDC and FAP

Agency error OIs are not pursued if the estimated OI amount is less than \$500 per program.

The claimant's grievance centers on dissatisfaction with the department's current policy.

The claimant's request is not within the scope of authority delegated to this Administrative Law

Judge pursuant to a written directive signed by the Department of Human Services Director,

which states:

Administrative Law Judges have no authority to make decisions on constitutional grounds, overrule statutes, overrule promulgated regulations or overrule or make exceptions to the department policy set out in the program manuals.

Furthermore, administrative adjudication is an exercise of executive power rather than judicial power, and restricts the granting of equitable remedies. *Michigan Mutual Liability Co. v Baker*, 295 Mich 237; 294 NW 168 (1940); *Auto-Owners Ins Co v Elchuk*, 103 Mich App 542, 303 NW2d 35 (1981); *Delke v Scheuren*, 185 Mich App 326, 460 NW2d 324 (1990), and *Turner v Ford Motor Company*, unpublished opinion per curium of the Court of Appeals issued March 20, 2001 (Docket No. 223082).

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the Department of Human Services caused an over-issuance of Food Assistance Program (FAP) benefits to Claimant between May 1, 2008 and March 31, 2009 in the amount of \$3,294. The Department of Human Services is entitled to recoup the \$3,294 over-issuance.

It is ORDERED that the actions of the Department of Human Services, in this matter, are UPHELD.

/s/ _____
Gary F. Heisler
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: June 8, 2009

Date Mailed: June 10, 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 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.

GFH [REDACTED]

cc: [REDACTED]