

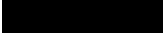
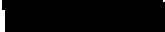
STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Claimant

Reg. No.: 2009-23804
Issue No.: 3020
Case No.: 
Load No.: 
Hearing Date:
August 3, 2009
Macomb County DHS (36)

ADMINISTRATIVE LAW JUDGE: Colleen Lack

HEARING DECISION

This matter is before the undersigned Administrative Law Judge upon pursuant to MCL 400.9 and MCL 400.37 upon claimant's request for a hearing. After due notice a telephone hearing was held on August 3, 2009 and claimant was not represented.

ISSUE

Is the department's proposed recoupment of the overissuance of Food Assistance Program (FAP) benefits correct?

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 is a FAP recipient in a household of one person.
2. Claimant called the department on September 8, 2008 to report a new job scheduled to start in November 2008. (Exhibit p 19)

3. Department did not take timely action to update claimant's income for the FAP budget resulting in an overissuance of \$742 in FAP benefits for the months from November 2008 through March 2009.
4. Department issued a Notice of Overissuance as well as the Agency and Client Error Information and Repay Agreement on April 3, 2009. (Exhibits 2 and 3)
5. Pursuant to the Agency and Client Error Information and Repay Agreement, if claimant had not paid off the entire balance by April 15, 2009 the department would begin administrative recoupment and reduce claimant's FAP benefits by \$20 per month. (Exhibit 2)
6. Claimant requested a hearing on April 13, 2009 contesting the recoupment of the FAP benefits.
7. Claimant's FAP benefits have remained open and unchanged pending the hearing.

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").

Under PAM 700, when a client group receives more benefits than they are entitled to receive, DHS must attempt to recoup the overissuance. PAM 700. An agency error overissuance is caused by incorrect action (including delayed or no action) by DHS, DIT staff, or department

processes. PAM 705. Agency error overissuances are pursued if the estimated overissuance amount is \$500 or more per program. PAM 700.

In the present case, the department agrees that the overissuance was due to the department's error in failing to timely respond to claimant's reporting of a new job. The department has run budgets for the months of November 2008 through March 2009 to determine the overissuance amount was \$742. (Exhibit 1 pp. 37-47) The proposed recoupment is correct under PAM 700 because the over issuance totaled more than \$500.

Claimant testified he has a significant amount of unused FAP benefits on his card. Claimant therefore requests that the Department use this balance as a credit toward the recoupment. The department policy for collections actions, PAM 725, directs that for administrative recoupment, FAP benefits are to be reduced by a percentage of the monthly FAP entitlement. Policy further directs that FAP supplements to restore lost benefits are automatically offset to repay in part or in whole FAP over issuances. PAM 725. However, the collections actions policy does not address if a balance of unused benefits can be similarly used to offset an overissuance. The department representative present at the hearing indicated he would look into this potential repayment option. If possible, claimant should be allowed to offset the recoupment with the balance of his unused FAP benefits.

DECISION AND ORDER

The ALJ bases upon the findings of fact and conclusions of law decides that the department's proposed recoupment of FAP benefits is correct and it is ordered that the Department's decision in this regard be and is hereby AFFIRMED.

Colleen Lack

Colleen Lack
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 09/10/09

Date Mailed: 09/11/09

NOTICE: The law provides that within 30 days of receipt of the above Decision and Order the claimant may appeal it to the circuit court for the county in which he/she lives. Administrative Hearings, on its own motion, or on request of a party within 60 days of the receipt of this Decision and Order, may order a rehearing.

Administrative Hearings will not order a rehearing on the agency's motion where the final decision or rehearing cannot be implemented within 90 days of the filing of the original hearing request.

CL/jlg

cc:

