

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: 2009-25897
Issue No: 3052
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
July 8, 2009
Genesee County DHS

ADMINISTRATIVE LAW JUDGE: Robert J. Chavez

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 July 8, 2009.

ISSUE

Was the claimant properly determined to have an overissuance in the FAP program of \$618?

FINDINGS OF FACT

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

(1) On 1-23-07, claimant completed a DHS-1171 application for FAP benefits, and reported that he was employed at the time.

(2) On 6-20-07, claimant provided a mid-certification contact indicating that he was not employed.

(3) As a result, the Department removed income from his FAP benefit determination effective in August, 2007.

(4) Claimant returned to work in July, 2007.

(5) Claimant notified his caseworker of this fact.

(6) However, for unknown reasons, the claimant's income was not included in his benefit allocation.

(7) Had this income been included, claimant's benefits would not have been retained at the level of which they were issued.

(8) On 1-11-08, claimant returned his FAP redetermination, which indicated that he was employed.

(9) The Department subsequently determined that claimant had an overissuance of \$618.

(10) The Department also determined that claimant never reported this income and charged claimant with a client error, assessing the overissuance as such.

(11) On 5-5-09, claimant requested a hearing, alleging that he should not have to pay the money back because he had fulfilled his obligations to the Department.

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).

Clients must report changes in circumstance that potentially affect eligibility or benefit amount. PAM 105.

A client/CDC provider error overissuance (OI) occurs when the client received more benefits than they were entitled to because the client/CDC provider gave incorrect or incomplete information to the department. PAM 715. This includes failing to report a change. An agency error OI is caused by incorrect actions (including delayed or no action) by DHS or department processes. PAM 705. When a client group receives more benefits than they are entitled to receive, DHS must attempt to recoup the overissuance. PAM 700.

Agency error OI's are not pursued if the estimated OI amount is less than \$500 per program. Client error OIs are not established if the OI amount is less than \$125, unless the client is active for the OI program or the OI is a result of a Quality Control (QC) audit finding. PAM 700.

In the current case, the Department contends that claimant did not report changes to his income as required by policy, and as a result, was issued more FAP benefits than he was legitimately entitled to; these benefits need to be recouped. Claimant contends that he did report the change in his income, but his caseworker never processed that change; he contends that he should not have to pay back the overissuance because of a caseworker mistake.

The Administrative Law Judge finds that the claimant most likely did report the changes to his income. During the hearing, the claimant credibly testified as to dates and circumstances of his report. Claimant testified that he reported the change when he changed his address; the undersigned sees no reason to doubt this. This would not be the first time that the Department failed to enter information of a change or made a mistake on a client case, and it certainly won't

be the last. The claimant was adamant that this case was a result of agency error; the undersigned believes this to be the case.

Unfortunately, this does not change the recoupment prospects. PAM 700 states that the Department must pursue any OI that was the result of agency error if the amount is above \$500. Claimant's OI was \$618. Therefore, the OI must be recouped, regardless of whose fault the error was.

Furthermore, the OI amount requested for recoupment is correct. The undersigned has reviewed all budgets; PEM 500 and 550 state that reported earned income is eligible for a 20% deduction. In the original budgets, the claimant was not eligible for this deduction because he was considered not to have reported his earned income. However, the Administrative Law Judge holds that claimant did report the income, and the agency was at fault for not including it in his budget. However, when re-calculating the budget using this 20% deduction, the undersigned has found that it does not make a difference in the FAP allocation. Even with the 20% deduction, claimant was still overpaid in FAP benefits by \$618. Therefore, the recoupment amount must stand.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the claimant was the recipient of an overissuance of FAP benefits in the amount of \$618. Therefore, the Department's decision to initiate recoupment of claimant's FAP overissuance was correct. However, this overissuance was the result of agency error, not client error.

Accordingly, the Department's decision in the above stated matter is, hereby,
AFFIRMED.

The Department is ORDERED to initiate recoupment of the overissuance, per the regulations contained in PAM 700 pertaining to Agency Error.

/s/ _____
Robert J. Chavez
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: September 1, 2009

Date Mailed: September 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 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.

RJC/cv

cc:

[REDACTED]