

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: 2009-5989
Issue No: 3020
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
February 4, 2009
Macomb County DHS

ADMINISTRATIVE LAW JUDGE: Steven M. Brown

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 Kalamazoo, Michigan on February 4, 2009.

ISSUE

Whether the Department is entitled to recoup an overissuance to Claimant due to a Department error.

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 is a FAP recipient.
2. On September 1, 2007, Claimant completed an Assistance Application, DHS-1171, listing her daughter, [REDACTED], as a person who lived in her home. (Exhibits 3 - 8)

3. The Department caseworker failed to question [REDACTED] age and whether or not she had earnings at the time of application. [REDACTED] was under 22 years of age and had earned income.

4. As a result of the Department's failure to include [REDACTED] as a group member and budget her earned income, Claimant received an [REDACTED] FAP overissuance. (Exhibits 10 - 36)

5. On October 29, 2008, the Department received the Claimant's written hearing request 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 overissuance of FAP benefits due to the Department's failure to include earned income. An overissuance ("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 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. PEM 705, pp. 1, 2, 3

In the record presented, the Department failed to budget the earned income of [REDACTED] which resulted in a FAP overissuance. Claimant agreed with the income used by the Department in calculating the overissuance. Ultimately, the Department established that the Claimant received an [REDACTED] FAP overissuance due to department error. The overissuance is [REDACTED] or more, thus the Department is entitled to recoupment.

DECISION AND ORDER

The Administrative Law Judge, based upon findings of fact and conclusions of law, finds that the Claimant received an [REDACTED] FAP overissuance due to the Department error.

Accordingly, it is ordered:

1. The Department's determination of an [REDACTED] FAP overissuance is AFFIRMED.
2. The Claimant shall be required to reimburse the Department the FAP benefits ineligibly received, due to Department error, in the amount of [REDACTED] in accordance with department policy.

/s/ _____
Steven M. Brown
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: February 10, 2009

Date Mailed: February 19, 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.

SMB

cc:

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