

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: 201010473

Issue No: 3020

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

January 12, 2010

Genesee 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 Claimant's request for a hearing. After due notice, a telephone hearing was conducted from [REDACTED] on January 12, 2010.

ISSUE

Whether the Department made an error in computing Food Assistance Program (FAP) benefits which resulted in an overissuance to Claimant?

FINDINGS OF FACT

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

- (1) Claimant was a FAP recipient.
- (2) Claimant remarried in June 2009. She called the Department in July to report this change and turned in all the necessary paperwork in August. The Department

found the information and requested some updates which Claimant returned in early September.

(3) On October 22, 2009, the Department mailed Claimant a Notice of Overissuance, DHS-4358-B, which “explained” that she was overissued benefits in the amount of [REDACTED] for the months of October [REDACTED] and November ([REDACTED]) 2009 due to Agency Error. (Exhibit 1)

(4) On November 2, 2009, the Department received Claimant’s hearing request protesting the Department’s request for repayment of the overissuance.

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. Departmental policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Bridges Reference Manual (BRM).

An overissuance is the amount of benefits issued to the client group or CDC provider in excess of what they were eligible to receive. BAM 705, p.5 The amount of the overissuance is the amount of benefits the group or provider actually received minus the amount the group was eligible to receive. BAM 720, p.6 When a client group receives more benefits than they are entitled to receive, DHS must attempt to recoup the overissuance (OI). BAM, p.1

Agency errors are caused by incorrect actions by DHS. BAM 705, p.1 Agency error overissuances are not pursued if the estimated overissuance is less than \$500 per program. BAM 700, p.6 Client errors occur when the customer gave incorrect or incomplete information to the Department. Client errors are not established if the overissuance is less than \$125 unless the client group is active for the overissuance program or the overissuance is a result of a QC audit finding. BAM 700, p. 4, 5

In the instant case, the Department acknowledged that Claimant's husband should have been added to her case by early September and stated that, as a result, Claimant's FAP benefits would have been terminated effective October 1, 2009 due to excess income. Instead, Claimant's husband was not added until October 21, 2009. The Department then mailed Claimant a Notice of Overissuance on this date, but it is a mystery to the undersigned why the Notice of Overissuance went out October 21, 2009 for an overissuance in October and November 2009 – the latter month not having yet occurred. In addition, while the Department offered the Notice of Overissuance and the December 2009 Budget, it did not offer the actual or corrected budgets for October and November 2009 or the October 21, 2009 Notice of Case Action.

With the above said, based on the testimony and documentation offered during and after hearing, I do not find that that the Department established that it acted in accordance with policy. Specifically, the Department failed to establish that Claimant was overissued FAP benefits and/or the amount of the alleged overissuance.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, does not find that the Department acted in accordance with policy.

Specifically, the Department failed to establish that Claimant was overissued FAP benefits and/or the amount of the alleged overissuance.

Accordingly, the Department's FAP eligibility determination is REVERSED, it is SO ORDERED.

/s/

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

Date Signed: January 21, 2010

Date Mailed: January 22, 2010

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/db

cc:

