

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: 201012107  
Issue No: 3020  
Case No: [REDACTED]  
Load No: [REDACTED]  
Hearing Date:  
January 20, 2010  
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Jeanne M. VanderHeide

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 Detroit, Michigan on January 20, 2010. The Claimant appeared and testified at the hearing. Cassandra Goodman, FIM and Patricia Wright, ES, appeared on behalf of the Department.

ISSUE

Whether the Department is entitled to recoup a \$253.00 FAP over-issuance for the period for November, 2009 due to the Department's failure to add Claimant's unemployment income into the FAP budget.

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 an active FAP recipient.

2. Claimant testified that she has been laid off and is underemployed, as a result, she is receiving unemployment benefits.
3. The Claimant's FAP budget was prepared without inclusion of her biweekly unemployment compensation income.
4. The Department indicated that it failed to take action to include Claimant's unemployment compensation income.
5. The Department recalculated the Claimant's FAP budget and determined there was an over-issuance of FAP benefits totaling \$253.00. (Exhibit 1, p. 1). No budgets were presented as exhibits in support of this over-issuance.
6. The Department sent a Notice of Over-issuance to Claimant on November 10, 2009. (Exhibit 2A).
7. On November 19, 2009, the Department received the Claimant's written request for a hearing 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 Bridges Administrative Manual ("BAM"), the Bridges Eligibility Manual ("BEM"), and the Program Reference Manual ("PRM").

In this case, the Department seeks recoupment of an over-issuance of FAP benefits due to the Department's failure to properly include Claimant's income in the November, 2009 FAP

budget. An over-issuance (“OI”) occurs when a client group receives more benefits than they are entitled to receive. BAM 700, p. 1. A claim is the resulting debt created by the overissuance of benefits (OI). Id. Recoupment is an action to identify and recover a benefit. Id. The Department must take reasonable steps to promptly correct any overpayment of public assistance benefits, whether due to department or client error. BAMs 700, 705, 715, and 725. An agency error OI is caused by incorrect actions by DHS, DIT staff, or department processes. BAM 705, p. 1. Within 90 days of determining that an overissuance occurred, the Department must obtain all evidence needed to establish the overissuance. BAM 700, p. 9.

Based on the evidence and testimony presented on the record, the undersigned finds that if there was an overissuance of benefits, it was caused by Department error. However, the Administrative Law Judge also finds that the Department failed to meet its burden of proof by providing evidence to show that there was an overissuance of benefits. The Department presented a budget for the time period 12/1/09 – 11/30/10 upon request by this ALJ for additional evidence. (Exhibit 3). However, the Department did not present any evidence showing how the FAP benefits were calculated before the overissuance in November, 2009 or how the FAP benefits should have been correctly budgeted in November, 2009. The undersigned is, therefore, unable to determine whether there actually was an overissuance.

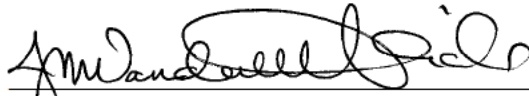
Accordingly, the Department’s FAP OI and recoupment actions are REVERSED.

#### DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department’s determination of a FAP overissuance and recoupment of \$253.00 for November, 2009 is not upheld.

Accordingly, it is ORDERED:

1. The OI and recoupment for November, 2009 FAP benefits is REVERSED.
2. The Department shall cease recoupment of the November, 2009 \$253.00 over-issuance and supplement the Claimant with any lost FAP benefits she was otherwise entitled to receive had the recoupment not been initiated.



Jeanne M. VanderHeide  
Administrative Law Judge  
for Ismael Ahmed, Director  
Department of Human Services

Date Signed: 03/10/10

Date Mailed: 03/11/10

**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.

JV/dj

cc:

