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: 2010-12380
Issue No: 3052
Case No: ████████
Load No: ████████
Hearing Date:
January 12, 2010
Genesee County DHS

ADMINISTRATIVE LAW JUDGE: Gary F. Heisler

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 January 12, 2010. Claimant appeared and testified.

ISSUE

Did the Department of Human Services over-issue Claimant $364 of Food Assistance Program (FAP) benefits which need to be recouped?

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 was an ongoing recipient of Food Assistance Program (FAP) benefits.

(2)   On October 6, 2009, Claimant moved into a different rental residence. Claimant reported and verified his shelter expenses to the Department in a timely manner.

(3)   When the change of shelter expenses was entered into the Bridges computer program, an error was made entering the date of the change. The data entry error caused the Bridges program to supplement Claimant with Food Assistance Program (FAP) benefits for August and September, which he was not actually eligible for. The total of the over-issuance was $368.

(4)   On October 28, 2009, Claimant was sent a recoupment notice.

(5)   On November 9, 2009, Claimant submitted a request for hearing on the recoupment action.

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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

In this case, there is no dispute that an agency error caused an over-issuance of Food Assistance Program (FAP) benefits to Claimant in the amount of $368. Department policy provides the following guidance for case workers. The Department's policies are available on the internet through the Department's website.

PAM 705 AGENCY ERROR OVERISSUANCES

DEPARTMENT POLICY

All Programs

Recoupment policies and procedures vary by program and overissuance (OI) type. This item explains agency error OI processing and establishment. PAM 700 explains OI discovery, OI types and standards of promptness. PAM 715 explains client error, and PAM 720 explains Intentional Program Violations.

Definition

All Programs

An **agency error** OI is caused by incorrect actions (including delayed or no action) by DHS or DIT staff or department processes. Some examples are:

• Available information was not used or was used incorrectly.
• Policy was misapplied.
• Action by local or central office staff was delayed.
• Computer or machine errors occurred.
• Information was not shared between department divisions (services staff, Work First! agencies, etc.).
• Data exchange reports were not acted upon timely (Wage Match, New Hires, BENDEX, etc.). If unable to identify the type of OI, record it as an agency error.

AGENCY ERROR EXCEPTIONS

FIP, SDA, CDC and FAP

Agency error OIs are not pursued if the estimated OI amount is less than $500 per program.

This proposed over-issuance action occurred due to changes in the Bridges computer program lowering the agency error recoupment threshold. However, the Department of Human Services policy is inconsistent with the Bridges computer program, and controls. The $500 agency error threshold cited above will be enforced. This proposed over-issuance action is not valid because it is inconsistent with Department of Human Services policy.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the Department of Human Services did over-issue Claimant $364 of Food Assistance Program (FAP) benefits. However, the Department is not authorized to recoup the over-issuance.

It is ORDERED that the actions of the Department of Human Services, in this matter, are REVERSED.

/s/
_____
Gary F. Heisler
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: February 16, 2010

Date Mailed: February 18, 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.

GFH/

cc: