

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: 201012761
Issue No: 3052; 3002; 3003
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
January 21, 2010
Oakland 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 January 21, 2010.

ISSUE

Was the claimant properly determined to have an overissuance in the FAP program of \$508? Was claimant's FAP budget correctly determined?

FINDINGS OF FACT

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

- (1) In November, 2009, the Department received notification that claimant's UCB benefits started in August, 2009.
- (2) Claimant was receiving \$298 bi-weekly.

- (3) The Department ran a budget on claimant's FAP allocation and determined that claimant wasn't eligible for benefits from a period of August 1, 2009 through November 30, 2009.
- (4) Claimant had been receiving benefits in the amount of \$127 during this time period.
- (5) An overissuance notice was sent that determined that claimant's FAP overissuance was in the amount of \$508.
- (6) Subsequent budgets showed that claimant had not been overpaid at all, but instead, had been underpaid.
- (7) The reason for the overissuance appears to be a Bridges error.
- (8) On November 18, 2009, claimant requested a hearing, denying the overissuance and requesting a review of her FAP benefits.

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 Bridges Reference Manual (BRM).

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. BAM 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. BAM 705. When a client group receives more benefits than they are entitled to receive, DHS must attempt to recoup the overissuance. BAM 700.

In October 2009, agency error OI's are not pursued if the estimated OI amount was 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. BAM 700.

The Administrative Law Judge has reviewed the claimant's FAP budgets and determined that the Department was incorrect in deciding that claimant's FAP allotment was \$127. Furthermore, the Department was incorrect in its subsequent calculations that claimant's FAP allotment should have been \$0.

The budgets for the time period involved show an income of \$0 and a net benefit amount of \$127. After performing the calculations during the hearing the undersigned is unable to determine how this amount was arrived at. Furthermore, after running the calculations himself, the Administrative Law Judge has determined that claimant was most likely underpaid benefits for the time period in question.

Claimant's unearned income from the period in question was \$640 dollars in UCB benefits, verified by the claimant herself. After applying a standard deduction of \$132, per policy, claimant was left with a net income of \$508. No other deductions were given, and claimant did not claim any other deductions. A net income of \$508 for a group of claimant's size is eligible for an FAP benefit amount of \$216 per month. RFT 260. Therefore, not only claimant was not only eligible for the amount of FAP benefits given, she appears to have actually been underpaid in FAP benefits. Thus, the Department was in error when it issued a recoupment notice to the claimant.


DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the claimant's FAP allocation in the amount of \$127 is incorrect. The recoupment amount of \$508 is incorrect. There is no overissuance in the current case.

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

Recoupment is DENIED.

The Department is ORDERED to recalculate claimant's FAP allotment during the time period in question and issue supplemental benefits if the Department's calculations show that claimant was underpaid FAP benefits during this time.



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

Date Signed: 03/22/10

Date Mailed: 03/26/10

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.

RJC/dj

2010-12761/RJC

cc:

