

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: 2010-12837

Issue No: 3020

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

March 10, 2010

Oakland County DHS

ADMINISTRATIVE LAW JUDGE: Jonathan W. Owens

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 March 10, 2010. Claimant appeared and testified.

ISSUE

Did the Department properly determine the Claimant had received an over-issuance of Food Assistance Program (FAP) because of Department error?

FINDINGS OF FACT

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

1. On November 9, 2009, a review was completed on the Claimant's FAP case. BRIDGES determined the Claimant had an over-issuance of FAP benefits. The Claimant had properly reported all sources of income and this was determined to be a Department error created by BRIDGES upon conversion to the system.

2. On November 16, 2008, the Claimant requested a hearing.

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) administers the FAP program pursuant to MCL 400.10, et seq., and MAC R 400.3001-3015. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

In the present case, the Claimant requested a hearing to dispute a FAP over-issuance. The Department provided print-outs from the BRIDGES system in an effort to support an over-issuance. No actual budget detail was provided for months of suspected over-issuance. This makes determining whether an over-issuance occurred or the actual amount of the alleged over-issuance impossible. The Department testified when BRIDGES came online, it failed to pull in all income for the Claimant. At review, BRIDGES determined an over-issuance had occurred.

The exhibits provide demonstrate the following:

- June 2009 print-out shows no recoupment amount and fails to list any amount of income or deductions.
- July 2009 print-out shows \$71.00 as the recoupment amount.
- August 2009 print-out shows \$71.00 as the recoupment amount.
- September 2009 print-out shows \$71.00 as the recoupment amount.

- October 2009 print-out shows \$72.00 as the recoupment amount.
- November 2009 print-out shows \$38.00 as the recoupment amount.

In part, the policies provide:

BENEFIT OVERISSUANCES: BAM 700, p. 1

DEPARTMENT POLICY

All Programs

When a customer group receives more benefits than they are entitled to receive, the department must attempt to recoup the over issuance (OI).

The **Automated Recoupment System (ARS)** is the part of CIMS that tracks all FIP, SDA and FAP OIs and payments, issues automated collection notices and triggers automated benefit reductions for active programs.

An **over issuance (OI)** is the amount of benefits issued to the customer group in excess of what they were eligible to receive.

Over issuance Type identifies the cause of an over issuance.

Recoupment is a department action to identify and recover a benefit over issuance. PAM 700, p.1.

PREVENTION OF OVERISSUANCES

All Programs

The department must inform customers of their reporting responsibilities and act on the information reported within the standard of promptness.

During eligibility determination and while the case is active, customers are repeatedly reminded of reporting responsibilities, including:

- acknowledgments on the application form, **and**

- your explanation at application/re-determination interviews, **and**
- customer notices and program pamphlets.

The department must prevent OIs by following BAM 105 requirements and by informing the customer or authorized representative of the following:

- Applicants and recipients are required by law to give complete and accurate information about their circumstances.
- Applicants and recipients are required by law to promptly notify the department of any changes in circumstances within 10 days.
- Incorrect, late reported or omitted information causing an OI can result in cash repayment or benefit reduction.
- A timely hearing request can delete a proposed benefit reduction.

If the department is upheld or the customer fails to appear at the hearing, the customer must repay the OI.

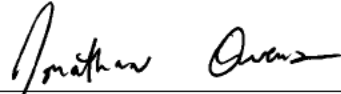
Record on the application the customer's comments and/or questions about the above responsibilities. BAM 700, p.2.

The Department records, at best, only demonstrate a possible over-issuance in the amount of \$323 not \$837. The Department has failed to provide sufficient evidence to demonstrate an over-issuance. Since the Department failed to provide adequate budget detail to support income, household deductions, etc., this ALJ is unable to authorize in good faith any amount of recoupment.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department of Human Services failed to establish it acted in accordance with Department policy.

Accordingly, the Department's decision is REVERSED.



Jonathan W. Owens
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 03/26/10

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.

JWO/dj

cc:

