

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.: 2010-12905
Issue No.: 3020
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
January 28, 2010
Wayne County DHS (35)

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

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 held on January 28, 2010. The Claimant appeared and testified. [REDACTED] FIS appeared on behalf of the Department.

ISSUE

Was the Department correct in finding Claimant's received an overissuance of FAP benefits and requiring recoupment of the overissuance?

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 on going recipient of FAP benefits.
- (2) On October 28, 2009 the Department determined that an overissuance had occurred due to Department error. A household member who Claimant disclosed had left the household was included in the household.

- (3) Claimant received overissuances in the amount of \$97 under the FAP program. Claimant received \$723 when she should have received \$630 for October 2009.
- (4) Claimant requested a hearing on October 30, 2009 contesting the overissuance determination and recoupment of benefits.

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 Program Administrative Manual (“PAM”), the Program Eligibility Manual (“PEM”), and the Program Reference Manual (“PRM”).

When a client group receives more benefits than they are entitled to receive, DHS must attempt to recoup the over issuance (OI) if the overissuance is greater than \$125. BPB 2010-005. The amount of the OI is the amount of benefits the group or provider actually received minus the amount the group was eligible to receive. PAM 720, p. 6.

In the present case, Claimant informed that the Department that her child had left the household. The Department acknowledges that Claimant informed them of the change, but the change was not reflected in the budgeting. For October 2009 Claimant received \$723 in FAP benefit when she was entitled to \$630. Claimant received an overissuance of \$97.

Claimant has \$597 unearned income. The standard deduction of \$144 was subtracted from \$597 resulting in adjusted income of \$329. Claimant does qualify for excess shelter deduction of \$329. Subtracting \$329 from \$453 results with \$124. The Food Assistant Issuance

Table shows \$630 in benefit for \$124 net income for a household of 4. RFT 260 This is the amount determined by the Department and it is correct.

Although there was an overissuance, recoupment was inappropriate in this case because the amount of the overissuance was below the threshold for recoupment for agency error for the FAP program. BPB 2010-005. Any monies recouped should be reimbursed to the Claimant.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that Claimant received overissuances in FAP program benefits due to agency error. However, the amount of overissuance was below the threshold and should not have been recouped. Therefore the Department's decision in this regard be and is hereby REVERSED and any monies taken from the Claimant for recoupment shall be reimbursed to the Claimant in the form of a supplement.



Aaron McClintic
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 3/24/2010

Date Mailed: 3/24/2010

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.

AM/jlg

cc:

