

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.: 201014080

Issue No.: 3020

Case No.: [REDACTED]

Load No.: [REDACTED]

Hearing Date:

May 5, 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 May 5, 2010. The Claimant appeared and testified at the hearing. [REDACTED] ES appeared on behalf of the Department.

ISSUE

1. Whether the Department is entitled to recoup a \$284.00 FAP over-issuance for the period of October and November, 2009?
2. Whether Claimant's MA and FAP benefits were improperly closed for the months of December, 2009 and January, 2010.?

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 the father of her children moved into her home full time as of December 1, 2009. Prior to this time, the father was just staying a few days here and there in the home.
3. The Department mailed out a redetermination packet. Claimant returned a pay stub for the month of October which was missing yearly totals of wages earned. (Exhibit 2).
4. A telephone conference was scheduled on December 11, 2009. Claimant testified that the Department never called although Claimant was available for the interview.
5. On 12/16/09, the Department notified Claimant that her case would close effective 1/1/10.
6. The Department indicated that Claimant's MA and FAP benefits were restored on 2/1/10.
7. However, Claimant testified that she did not receive any benefits in the months of December 2009 or January 2010.
8. On December 17, 2009, the Department received the Claimant's written request for a hearing protesting the denial of FAP and MA 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 Bridges Administrative Manual ("BAM"), the Bridges Eligibility Manual ("BEM"), and the Reference Tables ("RFT").

A. FAP Over-issuance

In this case, the Department seeks recoupment of an over-issuance of FAP benefits due to the Department's failure to properly include another individual's income in the FAP budget for October and November, 2009. 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.

The Claimant testified credibly that her children's father did not come to live in her household until the first of December, 2009. Therefore, based on the evidence and testimony presented on the record, the undersigned finds that the Department failed to meet its burden of proof by providing evidence to show that there was an overissuance of benefits. Accordingly, the Department's FAP OI and recoupment actions are REVERSED.

B. FAP Redetermination and Closure

Benefits will stop at the end of the benefit period unless a redetermination is completed and a new benefit period is certified. If the client does not complete the redetermination process, the benefit period is allowed to expire. The redetermination process begins when the client files a DHS-1171, Assistance Application, DHS-1010, Redetermination, DHS-1171, Filing Form, or DHS-2063B, Food Assistance Benefits Redetermination Filing Record. BAM 210, p. 2. The

Department is required to conduct an in-person interview at redetermination before determining ongoing eligibility. BAM 210, p. 4.

Bridges generates a redetermination packet to the client three days prior to the negative action cut-off date in the month before the redetermination is due. This allows time to process the redetermination before the end of the redetermination month. The FAP redetermination must be completed by the end of the current benefit period so that the client can receive uninterrupted benefits by the normal issuance date. BAM 210, p. 12. In order to receive uninterrupted benefits, (benefits available on their scheduled issuance date) the client must file either a DHS-1010, Redetermination, DHS-1171, Assistance Application, or a DHS-2063B, Continuing Food Assistance Benefits, by the 15th of the redetermination month. BAM 210, p. 9. A telephone interview is not necessary as a condition of eligibility for AMP benefits. BAM 210, p. 4. If neither the client nor the Department can obtain verification despite a reasonable effort, the Department is to use the best available information. If no evidence is available, the Department is to use best judgment. BAM 130, p. 3.

In the present case, Claimant testified credibly that she submitted information in response to a redetermination request from the Department. The Paystub submitted did not include the current year paid or yearly totals. However, it did show Claimant's hours and rate of pay. The testimony reveals that the evidence was submitted early enough so that a simple phone call from the Department would have cleared up any insufficiencies with the pay stub prior to Claimant's benefits expiring. Or the Department could have used the best available information. Accordingly, based on the evidence presented and foregoing law, the Department's decision to close Claimant's MA and FAP benefits effective 12/31/09 is reversed.

The Department testified that according to Exhibit 3, p. 5, the Claimant was paid \$142.00 in FAP benefits for the months 10/1/09 – 12/31/09. Claimant, however, testified credibly that she did not receive any FAP money applied to her bridge card during the months of December, 2009 or January, 2010. This discrepancy can easily be resolved by obtaining a print out of the Bridge card deposits/expenditures. If FAP benefits were deposited during the months of December, 2009 and January, 2010 then the Department need not take any further action. If there were no FAP deposits for the months of December, 2009 and January, 2010, however, the Department will need to issue a supplement to Claimant.

C. MA

The Medical Assistance (“MA”) program is established by Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (“CFR”). The Department of Human Services, formally known as the Family Independence Agency, administers the MA program pursuant to MCL 400.10, *et seq* and MCL 400.105. Department policies are found in the Bridges Administrative Manual (“BAM”), the Bridges Eligibility Manual (“BEM”), and the Reference Tables (“RFT”).

The goal of the Medicaid program is to ensure that essential health care services are made available to those who otherwise could not afford them. BEM 105, p. 1. Medicaid is also known as Medical Assistance (“MA”). *Id.* The Medicaid program is comprised of several categories; one category is for FIP recipients while another is for SSI recipients. *Id.* Programs for individuals not receiving FIP or SSI are based on eligibility factors in either the FIP or SSI program thus are categorized as either FIP related or SSI related. *Id.* To receive MA under an SSI related category, the person must be aged (65 or older), blind, disabled, entitled to Medicare or formally blind or disabled. *Id.* Families with dependent children, caretaker relatives of

dependent children, persons under age 21 and pregnant, or recently pregnant women, receive MA under FIP related categories. *Id.*

In the present case, the current MA budget for 2/1/10-2/28/10 shows that Claimant is authorized for MA without any spend down. (Exhibit 3, p. 2). However, there is an indication that at one point the MA-TMA was closed. (Exhibit 3, p. 4 shows authorized on 12/11/09). The Administrative Law Judge finds that Claimant's MA should have also continued without interruption for the same reason as the FAP benefits above. Therefore, the Department should investigate whether there was any gap in MA coverage and supplement Claimant for any uncovered period.

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 \$284.00 for October and November, 2009 is not upheld.

Accordingly, it is ORDERED:

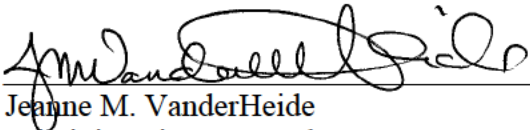
1. The OI and recoupment for October and November, 2009 FAP benefits is REVERSED.
2. The Department shall cease recoupment of the 284.00 over-issuance and supplement the Claimant with any lost FAP benefits she was otherwise entitled to receive had the recoupment not been initiated.

In addition, the Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department's closure of FAP and MA benefits for the months of December, 2009 and January, 2010 is not upheld.

Accordingly, it is ORDERED:

1. The Department's 12/31/10 FAP and MA closures are REVERSED.

2. The Department shall reopen the Claimant's FAP and MA cases back to the date of closure, 1/1/10, delete any related negative action and supplement the Claimant for any lost benefits to which she was otherwise entitled.
3. The Department shall order a print out of the Bridge Card Report showing deposits and expenditures for 12/1/09 – 1/31/10. If there were no FAP deposits during the months of December, 2009 and/or January, 2010, then the Department shall supplement the Claimant for any lost benefits she was otherwise entitled to receive pursuant to this Order.

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

Date Signed: May 26, 2010

Date Mailed: May 26, 2010

NOTICE: The law provides that within 30 days of receipt of the above Decision and Order, the respondent may appeal it to the circuit court for the county in which he/she lives.

JV/ htw

cc:

