STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF: ███████████   Reg No: 2010-14608
                                                             Issue No: 3008
                        Claimant,   Case No: ████████
                                                             Load No: ████████
                                                             Hearing Date:
                                                             February 23, 2010
                                                             Washtenaw County DHS

ADMINISTRATIVE LAW JUDGE: Steven M. Brown

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
telephone hearing was conducted from ███████████ on February 23, 2010.

ISSUE(S)

Whether the Department properly denied Claimant's application for Child
Development and Care (CDC) benefits and closed Claimant's Food Assistance Program
(FAP) and Medical Assistance (MA) cases based upon her failure to provide requested
verification(s)?

Whether the Department made an error in computing Food Assistance Program
(FAP) benefits which resulted in an overissuance to Claimant that it is entitled to recoup?

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 a FAP and MA recipient.

(2)   On August 14, 2009, Claimant applied for CDC benefits and supplied some August income information.

(3)   On November 2, 2009, the Department sent Claimant a Verification Checklist with a due date of November 12, 2009. The Verification Checklist, in the Comments section, stated – "Need pay info for all of Aug & Sept". The actual request at the bottom of the November Verification Checklist was for – "Last 30 days of check stubs or earnings statements" which would have been October. (Exhibit 1)

(4)   Claimant received the Verification Checklist and did not understand who she was supposed to send the documentation to because her caseworker had changed on a couple of occasions. While Claimant could not recall providing the Department with income information in response to the Verification Checklist, the Department was in possession of Claimant's October income information so she must have provided it at some point. The documentation was not date stamped by the Department.

(5)   On December 9, 2009, the Department sent Claimant a Notice of Case Action informing her that her CDC application had been denied for failure to verify necessary information and her MA and FAP case(s) were also denied/closed for the same reason. (Exhibit 2)

(6)   On December 9, 2009, the Department sent Claimant a Notice of Overissuance for the FAP program for the period of October 1, 2009 to December 31, 2009 in the amount of ███████. (Exhibit 3)

(7)   On December 14, 2009, the Department received Claimant's hearing request(s) protesting the denial of her application for CDC benefits, the closure of her MA and FAP case(s) and the recoupment of the alleged overissuance of FAP benefits.

CONCLUSIONS OF LAW

The Child Development and Care program is established by Titles IVA, IVE and XX of the Social Security Act, the Child Care and Development Block Grant of 1990, and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The program is implemented by Title 45 of the Code of Federal Regulations, Parts 98 and 99. The Department of Human Services (DHS or department) provides services to adults and children pursuant to MCL 400.14(1) and MAC R 400.5001-5015. Department policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

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. Departmental policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Bridges Reference Manual (BRM).

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 (DHS or department) 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 Bridges Reference Manual (BRM).

Clients must cooperate with the local office in determining initial and ongoing eligibility. This includes the completion of necessary forms. BAM 105, p. 5 Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. BAM 130, p.1 Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level when it is required by policy, required as local office option or information regarding an eligibility factor is unclear, inconsistent, incomplete or contradictory. BAM 130, p.1 The Department uses documents, collateral contacts or home calls to verify information. BAM 130, p.1 A collateral contact is a direct contact with a person, organization or agency to verify information from the client. BAM 130, p. 2 When documentation is not available, or clarification is needed, collateral contact may be necessary. BAM 130, p. 2

Clients are allowed 10 calendar days (or other time limit specified in policy) to provide the verifications requested by the Department. BAM 130, p. 4 If the client cannot provide the verification despite a reasonable effort, the time limit should be extended at least once. BAM 130, p. 4 Verifications are considered timely if received by the date they are due. BAM 130, p. 4 A negative action notice should be sent when the client indicates a refusal to provide the verification or the time period provided has lapsed and the client has not made a reasonable effort to provide it. BAM 130, p. 4 For MA only, the Department should extend the time limit up to three times and the negative action notice should be sent when the client indicates a refusal to provide the verification or the time period given has elapsed. BAM 130, p. 5

Clients are allowed a reasonable opportunity to resolve any discrepancy between statements and information obtained through another source. BAM 130, p. 6

Disagreements and misunderstandings should be resolved at the lowest possible level to avoid unnecessary hearings. BAM 600, p. 11

An overissuance is the amount of benefits issued to the client group or CDC provider in excess of what they were eligible to receive. BAM 705, p.5 The amount of the overissuance is the amount of benefits the group or provider actually received minus the amount the group was eligible to receive. BAM 720, p.6 When a client group receives more benefits than they are entitled to receive, DHS must attempt to recoup the overissuance (OI). BAM, p.1 Agency errors are caused by incorrect actions by DHS. BAM 705, p.1 Client errors occur when the customer gave incorrect or incomplete information to the Department. BAM 700, p. 4, 5

In the instant case, the Department did nothing with Claimant's case for about 3 months. It did have some August income information that Claimant provided with her August application, but that was apparently not enough and/or was out of date because of the Department's delay. The Department requested █████ and █████ pay information and also October pay information on the November Verification Checklist. The Department has paystubs for Claimant from ███████████ and █████ ███, but was unsure how or when they received this information because it was not date stamped. There was nothing wrong with Claimant's FAP or MA cases, they simply closed because Claimant allegedly did not respond to the Verification Checklist which was sent out for her CDC application. The Department provided no discernable information as to why Claimant was overissued FAP benefits and/or how that was calculated.

With the above said, I do not find that the Department established that it acted in accordance with policy in denying Claimant's CDC application, closing her FAP or MA case(s) or requesting recoupment of an alleged overissuance of FAP benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, does not find that the Department acted in accordance with policy in denying Claimant's CDC application, closing her FAP or MA case(s) or requesting recoupment of an alleged overissuance of FAP benefits. Accordingly, the Department's FAP eligibility determination is REVERSED, it is SO ORDERED. The Department shall:

(1)   Request whatever information it needs from Claimant to process her CDC application and use an application date of August 14, 2009.

(2)   Reinstate Claimant's FAP and MA benefits retroactive to the closure date. Issue Claimant supplemental benefits she is entitled to, if any.

(3)   Notify Claimant in writing of the Department's revised determination(s).

(4)   Claimant retains the right to request a hearing if she would like to contest the Department's revised determination(s).

(5)   The Department's request for recoupment of an alleged overissuance of FAP benefits is denied.

       _/s/_____
       Steven M. Brown
       Administrative Law Judge
       for Ismael Ahmed, Director
       Department of Human Services

Date Signed: March 23, 2010

Date Mailed: March 23, 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.

SMB/db

cc: