

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

██████████
Claimant,

Reg No: 2010-14615
Issue No: 3020
Case No: ██████████
Load No: ██████████
Hearing Date:
February 9, 2010
Lapeer 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 9, 2010.

ISSUE

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

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 is a FAP recipient.
- (2) On June 18, 2009, Claimant reported to the Department that she started working and provided her income information. (Exhibit 1)

(3) On December 8, 2009, the Department mailed Claimant a Notice of Overissuance.

(4) On December 21, 2009, the Department received Claimant's hearing request, DHS-4358-D.

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

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 Agency error overissuances are not pursued if the estimated overissuance is less than [REDACTED] per

program. BAM 700, p.6 Client errors occur when the customer gave incorrect or incomplete information to the Department. Client errors are not established if the overissuance is less than [REDACTED] unless the client group is active for the overissuance program or the overissuance is a result of a QC audit finding. BAM 700, p. 4, 5

In the instant case, the Department states in its Hearing Summary that a new budget was completed in December 2009 to include Claimant's income, Claimant was excess income once her income was added to the budget and the recoupment process started at that time. The Department, however, did not offer the December 8, 2009 budget, the "actual" budgets v. the "corrected" budgets for the month(s) in question, the Notice of Overissuance or any other document related to the alleged amount of overissuance, how it was calculated, etc. At the hearing, the Department was offered the opportunity to submit additional documentation, but declined to do so. At the 11th hour, the Department sent the undersigned the December 8, 2009 budget, policy RFT 250, 255 and an email from a recoupment specialist to the eligibility specialist. The information sent by the Department does not establish the amount of the overissuance and how it was calculated.

With the above said, based on the testimony and documentation offered at hearing, I do not find that that the Department established that it acted in accordance with policy. Specifically, the Department failed to establish that Claimant received an overissuance of FAP benefits that it is entitled to recoup.

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.

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Specifically, the Department failed to establish that Claimant received an overissuance of FAP benefits that it is entitled to recoup.

Accordingly, the Department's FAP eligibility determination is REVERSED, it is SO ORDERED.

/s/

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

Date Signed: February 11, 2010

Date Mailed: February 11, 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:

