

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: 2010-15143

Issue No: 3020

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

March 18, 2010

Clare 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 Lansing, Michigan on March 18, 2010.

ISSUE

Whether the Department made an error in computing Food Assistance Program (FAP) and Family Independence Program (FIP) 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 and FIP recipient.
- (2) On August 4, 2009, the Department received paychecks from Claimant dated July 10, 17, 24 and 31, 2009. (Exhibit 5)

(3) FIP budgets provided after hearing by the Department show that Claimant was eligible to receive [REDACTED] in FIP benefits in July and August 2009 based on no earned income and [REDACTED] in FIP benefits in September 2009 based on [REDACTED]/month in earned income.

(Exhibits A1-8)

(4) FAP budgets provided after hearing by the Department show that Claimant was eligible to receive [REDACTED] in FAP benefits in July 2009 based on unearned income of [REDACTED] and [REDACTED] in FAP benefits based on unearned income of [REDACTED] and earned income of [REDACTED].

(Exhibits A9 – 14)

(5) FAP budgets provided after hearing by the Department show that Claimant was eligible to receive [REDACTED] in FAP benefits in August 2009 based on unearned income of [REDACTED] and [REDACTED] in FAP benefits based on unearned income of [REDACTED] and earned income of [REDACTED].

(Exhibits A15 – 20)

(6) FAP budgets provided after hearing by the Department show that Claimant was eligible to receive [REDACTED] in FAP benefits in September 2009 based on unearned income of [REDACTED] and [REDACTED] in FAP benefits based on unearned income of [REDACTED] and earned income of [REDACTED].

(Exhibits A21 – 26)

(7) Notice of Overissuances provided by the Department after hearing show that, on October 27, 2009, the Department mailed Claimant a Notice of Overissuance which stated that she was overissued FIP benefits in the amount of [REDACTED] from September 1, 2009 to September 30, 2009 due to Department error. (Exhibits A27 – 31)

(8) Notice of Overissuances provided by the Department after hearing show that, on October 27, 2009, the Department mailed Claimant a Notice of Overissuance which stated that

she was overissued FAP benefits in the amount of [REDACTED] from September 1, 2009 to September 30, 2009 due to Department error. (Exhibits A32 – 36)

(9) On November 3, 2009, the Department received Claimant's hearing request protesting the Department's request for repayment of the alleged overissuances.

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).

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 8 USC 601, *et seq.* The Department of Human Services (DHS or department) administers the FIP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3101-3131. The FIP program replaced the Aid to Dependent Children (ADC) program effective October 1, 1996. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

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 705, p. 5 Agency errors are caused by incorrect actions by DHS. BAM 705, p.1

In the instant case, the Department's position at hearing was that Claimant did not timely provide earnings information to the Department and, therefore, it was not properly budgeted. I did not find any merit in the Department's position at hearing and continue not to. With that said, however, the Notices of Overissuance sent to Claimant classify the overissuance as a result of Department error, presumably because it failed to timely budget Claimant's earned income. Based on the testimony and documentation offered at and after hearing, I find that Claimant was overissued FIP and FAP benefits that the Department is entitled to recoup.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department acted in accordance with policy in requesting repayment of an overissuance of FIP and FAP benefits to Claimant.

Accordingly, the Department's FIP and FAP eligibility determination AFFIRMED, it is SO ORDERED.

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

Date Signed: April 6, 2010

Date Mailed: April 7, 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.

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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/vmc

cc:

