

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: 2010-15176

Issue No: 3052

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

August 12, 2010

Calhoun County DHS

ADMINISTRATIVE LAW JUDGE: Kevin Scully

HEARING DECISION

This matter is before the undersigned Administrative Law Judge by authority of MCL 400.9 and MCL 400.37. Claimant's request for a hearing was received on January 4, 2010. After due notice, a telephone hearing was held on Thursday, August 12, 2010.

ISSUE

Whether the Department of Human Services (Department) properly determined the Claimant's Food Assistance Program (FAP) eligibility?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

- (1) The Claimant was a FAP recipient until January 1, 2010.
- (2) On December 11, 2009, the Claimant notified the Claimant that he was moving to the State of [REDACTED]. Department Exhibit 1.

(3) On December 11, 2009, the Department completed a FAP budget. The Department determined that the Claimant's income had been overstated and that he was entitled to a FAP supplement totally [REDACTED]. Department Exhibit 4 and 7.

(4) On December 11, 2009, the Department discovered that the Claimant had received an overissuance of FAP benefits. The Department had sent the Claimant notice of the overissuance December 6, 2004. Department Exhibit 19.

(5) The Department closed the Claimant's FAP benefits effective January 1, 2010.

(6) The Department issued the Claimant a FAP supplement of [REDACTED], which had been reduced by a recoupment of [REDACTED]

(7) The Department received the Claimant's request for a hearing on January 4, 2010, protesting the recoupment of FAP benefits.

CONCLUSIONS OF LAW

The Food Assistance Program (FAP) (formerly known as the Food Stamp 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. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), Reference Table Manual (RFT), and the Bridges Reference Manual (BRM).

The Claimant testified that the Department issued him a correct FAP supplement, and that he only disputed the recoupment.

According to Department policy, the State Office of Administrative Hearings and Rules (SOAHR) may grant a hearing about any of the following:

- Denial of an application and/or supplemental payments.
- Reduction in the amount of program benefits or service.
- Suspension or termination of program benefits or service.
- Restrictions under which benefits or services are provided.
- Delay of any action beyond standards of promptness.
- For FAP only, the current level of benefits or denial of expedited service.

A client or authorized hearing representative have 90 calendar days from the date of the written notice of case action to request a hearing. The request must be received anywhere in DHS within the 90 days.

In this case, the Department notified the Claimant of an overissuance of FAP benefits on December 6, 2004. The Department received the Claimant's request for a hearing on January 4, 2010. Therefore the State Office of Administrative Hearings and Rules (SOAHR) lacks jurisdiction to hear and decide the Claimant's issue.

DECISION AND ORDER

The claimant's hearing request is **HEREBY DISMISSED**, because SOAHR for the Department lacks jurisdiction to hear and decide the Claimant's issue.

/s/ _____
Kevin Scully
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: August 20, 2010

Date Mailed: August 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.

KS/vc

cc:

