

STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg No: 2010 15440
Issue No. 3020,4060
Case No: [REDACTED]
Hearing Date:
April 20, 2011
Wayne County DHS (17)

ADMINISTRATIVE LAW JUDGE: [REDACTED]

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 April 20, 2011. The Claimant appeared and testified. [REDACTED], Recoupment Specialist, appeared on behalf of the Department.

ISSUE

Whether the Department is entitled to a recoupment of the Claimant's FAP benefits in the amount of [REDACTED] for a FAP over-issuance and recoupment for the period January 1, 2009 through March 31, 2009, due to the Department's failure to properly include Claimant's updated employment earned income when computing the Claimant's FAP benefits.

FINDINGS OF FACT

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

1. The Claimant was an active Food Assistance Program (FAP) benefits recipient during the period January 1, 2009 through March 31, 2009.
2. The Department seeks a recoupment and to establish a debt, due to an over-issuance of FAP benefits in the amount of [REDACTED]. Exhibit pages 5, 9 - 15.
3. The Department seeks recoupment for FAP over-issuance as the Department neglected to adjust the Claimant's FAP benefits after it received verification of current employment. The Department concedes the over-issuance resulted from Agency Error. Exhibit pages 17 -18.
4. The Client was over-issued FAP benefits from January 1, 2009 through March 31, 2009.
5. The Claimant received FAP benefits in the amount of \$852 for the period of over-issuance. Exhibit 10, pages 35 - 37.
6. On December 21, 2009, the Department received the Claimant's written request for a hearing protesting the proposed over-issuance and recoupment of FAP benefits, claiming that she had fully disclosed her income, is not unemployed and is without funds to repay the over-issuance, and is undergoing medical treatment for breast cancer.

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 Table (“RFT”).

In this case, the Department seeks debt establishment for an over-issuance of Food Assistance benefits (FAP) due to Agency Error resulting from the Claimant’s caseworker’s failure to budget earned income after verification of income was provided.

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 over issuance 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. In general, agency error OIs are not pursued if OI amount is under \$500.00 per program. BAM 705, p. 1. In this case the amount of the over issuance exceeds \$500 dollars so the department is entitled to pursue the FAP over issuance involved in this matter.

In the subject case, the Department has established its entitlement to collect the debt as the evidence presented at the hearing clearly established its entitlement to recovery of FAP benefits improperly paid to the Claimant. Food Assistance recipients are not entitled to collect FAP benefits when their income exceeds the gross income limit for their group size. The uncontroverted evidence showed the Claimant’s income did not entitle her to receive FAP benefits for the period in question. The budgets

submitted by the department for each month, January 2009 through March 2009 were reviewed and clearly established that the Claimant's income disqualified her from receiving FAP benefits. Exhibits pages 9 – 15.

The undersigned has reviewed the FAP budgets for the period and Exhibits pages 1 through 37 presented by the Department at the hearing and admitted as evidence, and finds that there was an over-issuance and that the Department is entitled to collect as a debt the amount of [REDACTED] in FAP benefits which were overissued to the Claimant. Accordingly, the Department's action for OI and debt establishment of the Claimant's FAP benefits is established by the evidence presented, and the Department is entitled to initiate collection procedures in accordance with Department policy. The Claimant indicated that she currently is not working, and has been recovering from breast cancer and has an autistic child. Although subject to the department's discretion, the Department can consider whether the Claimant may be deemed eligible for a waiver of repayment of the debt due to overissuance in accordance with BAM 725 at page 14 which provides:

DHS can compromise (reduce or eliminate) an overissuance if it is determined that a household's **economic** circumstances are such that the overissuance cannot be paid within three years.

A request for a policy exception must be made from the RS to the program office outlining the facts of the situation and the client's **financial** hardship.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department properly calculated the Claimant's FAP benefits to be over-issued in the amount of [REDACTED] and that the Department has

established that a debt is owed by the Claimant and is entitled to pursue debt collection proceedings to recoup FAP benefits improperly received by the Claimant

It is, therefore, ORDERED:

1. The claimant shall reimburse the Department for the FAP over-issuance in the total sum of [REDACTED].
2. The Department is entitled to and shall initiate collection procedures in accordance with Department policies.

[REDACTED]

Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 05/18/11

Date Mailed: 05/20/11

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.

LMF/dj

cc:

[REDACTED]

Administrative Hearings