

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: 2010-16899

Issue No: 3020

Case No:

Load No:

Hearing Date:

March 3, 2010

Monroe 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 [REDACTED] on March 3, 2010.

ISSUE

Whether Claimant received an overissuance of FAP benefits 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 was a FIP and FAP recipient.
- (2) Claimant lived with her boyfriend, his mother and his siblings.
- (3) On October 17, 2009, Claimant had a baby which, according to the Department, made Claimant's boyfriend and his family mandatory group members.

(4) On December 2, 2009, the Department mailed Claimant a Verification Checklist with a due date of December 14, 2009. (Exhibit 6)

(5) On December 2, 2009, the Department mailed Claimant a Notice of Case Action which informed her that her cash assistance had increased, her Medicaid had continued and her FAP case would close January 1, 2010 because – “You requested that your assistance be stopped”. (Exhibit 2)

(6) On December 2, 2009, the Department mailed Claimant a Notice of Overissuance which informed her that she received an overissuance of FAP benefits in November 2009 in the amount of [REDACTED] due to agency error. (Exhibit 1)

(7) On December 8, 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 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 agreed that it has no basis on which to state that Claimant was overissued benefits it is entitled to recoup. The Department's position was that Claimant's case closed because she not respond to the verification checklist. The Notice of Case Action actually states that it was closed because Claimant asked that her case be closed. Either way, while Claimant may not be entitled to benefits from January 1, 2010 - forward, it does not in any way mean she was overissued benefits in November 2009. In addition, the Department did not offer the "actual" budget v. the "corrected" budget for November 2009, how it was calculated, etc. The Department was offered the opportunity to submit additional documentation, but declined to do so.

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. 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: March 10, 2010

Date Mailed: March 10, 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:

