

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: 2010-20175

Issue No: 2018, 3020

Case No:

Load No:

Hearing Date:

April 15, 2010

Cass 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 April 15, 2010.

ISSUE

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

Whether the Department properly determined Claimant's Medical Assistance (MA) eligibility?

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 11:00 a.m. hearing in this matter began at approximately 12:30 p.m. because the Department mistakenly believed that Claimant had withdrawn her hearing request. The

Hearing Request Withdrawal offered by the Department in this regard did not correspond to Claimant's hearing request(s) which were the subject of the instant hearing. (Exhibit A)

(2) On January 22, 2010, Claimant filed a hearing request in regard to her MA coverage which was denied effective February 1, 2010 – ongoing for an unknown reason. The Department only produced page 1 and 3 of the 5 page January 14, 2010 Notice of Case Action. Neither page contains an explanation for the denial. The Family Independence Manager (FIM) appearing at hearing did not have any personal knowledge or any further documentation to explain and/or support the Department's MA determination. (Exhibits 3, 5-6)

(3) On January 22, 2010, Claimant filed a hearing request in regard to a Department request for recoupment of an alleged FAP overissuance. The Department produced page 1 of the January 14, 2010 Notice of Overissuance which only lists the time period, overissuance balance and reason for the overissuance. The Family Independence Manager (FIM) appearing at hearing did not have any personal knowledge or any further documentation to explain and/or support the Department's FAP determination. (Exhibits 2, 4)

#### 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 Medical Assistance (MA) program is established by Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department of Human Services (DHS or department) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

An overissuance (OI) is the amount of benefits issued to the client group or CDC provider in excess of what they were eligible to receive. Agency errors are caused by incorrect actions by DHS. When a client group receives more benefits than they are entitled to receive, DHS must attempt to recoup the OI. BAM 705

In the instant case, the Department provided no evidence to support its request for recoupment. In addition, the Department could not even tell the undersigned whether Claimant's MA coverage was terminated or denied so it obviously did not meet its burden of establishing that it acted in accordance with policy in making its MA determination.

With the above said, I do not find that the Department established that it acted in accordance with policy in requesting recoupment of an alleged FAP overissuance to Claimant or determining Claimant's MA eligibility.

#### 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 in requesting recoupment of an alleged FAP overissuance to Claimant or determining Claimant's MA eligibility.

Accordingly, the Department's FAP and MA eligibility determinations are REVERSED, it is SO ORDERED. The Department shall:

- (1) Complete a new MA budget for February 1, 2010 – ongoing.

- (2) Issue Claimant supplemental benefits she is entitled to, if any.
- (3) Notify Claimant in writing of the Department's revised determination.
- (4) Claimant retains the right to request a hearing if she would like to contest the

Department's revised determination.

(5) The Department's request for recoupment of an alleged FAP overissuance to Claimant is denied.

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

Date Signed: April 21, 2010

Date Mailed: April 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.

SB/lk

cc:

