

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: 2010-22499

Issue No: 3020

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

April 12, 2010

Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 12, 2010. The Claimant appeared and testified at the hearing. Marsha Paymon, FIS, and H.J. Jones, Jr. FIM, appeared on behalf of the Department.

ISSUE

Whether the Department is entitled to reduce Claimant's FAP benefits in order to recoup for a FAP over-issuance for the periods of November 2009, December 2009, and January 2010 based upon FAP budgets that were incorrect because they did not include the Claimant's earned income.

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 a FAP recipient and was receiving \$668 per month in FAP benefits based on a budget that did not include the Claimant's employment earnings. Exhibit 1 Page 7
2. The budget also contained an excess shelter allowance of \$459.
3. The Claimant currently receives \$266 a month in FAP benefits as of March 1, 2010.
4. The Claimant lives in subsidized housing and pays her heat and pays a portion of the rent in the amount of \$251. The budgets supporting the over issuances either did not include a shelter allowance, or contained an incorrect shelter allowance.
5. On January 16, 2010, the Claimant began receiving unemployment compensation in the amount of \$244 weekly. Exhibit 2, pages 31 and 31
6. On February 2, 2010, the Department issued a Notice of Case Action adjusting the Claimant's FAP benefits (decrease) based on a budget which included income earned by the Claimant but not unearned income based on unemployment compensation benefits received. Exhibit 3 Pages 19 through 24.
7. At the hearing, the Claimant advised she had turned in her housing expense but the department did not have a record of housing expense verified by the Claimant's landlord.
8. On February 3, 2010, the Department issued a Notice of over issuance for the months of November 2009, December 2009, and January 2010 in the amount of \$373 per month. Exhibit 4 Pages 1-5 (submitted 4/12/10).
9. The Claimant did not report to the Department that she was receiving unemployment benefits, and this income was not included in the over issuance amount.

10. The Claimant requested a hearing on 2/11/10 regarding the over issuance and the Department's recoupment of funds from the Claimant's FAP benefits.

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 Program Reference Manual ("PRM").

In this case, the Department seeks recoupment of an over-issuance of FAP benefits due to the fact that the budgets computing the Claimant's FAP benefits did not include the claimant's earned income for the months of November and December 2009 and January 2010. Once the Department was aware of the discrepancy, the Department recalculated the Claimant's FAP budget and reduced the amount of the Claimant's FAP benefits and sought recoupment after sending a notice of case action.

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 overissuance 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 \$125.00 per BAM 705, pp. 1-3. The over issuance in this case sought \$1119 and thus is over the threshold amount.

FAP benefits are paid based in part on the FAP groups' income both earned, from wages, and unearned income, like unemployment compensation benefits. Income is an essential part of the calculation to determine eligibility and the amount of FAP benefits. Other factors also are budgeted such as shelter allowance and shelter expenses for heat and rent. In the instant case, the Department did not include the Claimant's income in computing the Claimant's FAP budget, and did not include the Claimant's unearned income beginning January 16, 2010 or her rent of \$251 per month. The claimant said she provided, to the department, her landlord's verification of her rent. The Department said it did not receive the verification.

In the subject case, the Department's FAP budget was based on the claimant not receiving earned income from her job. The original budgets calculated the claimant's FAP benefits without adding any income into the budget. Because the budgets did not include income as required, the Claimant was overpaid FAP benefits.

Under Program Administrative Manual Item 600, clients have the right to contest any agency decision affecting eligibility or benefit levels whenever they believe the decision is illegal. The agency provides an Administrative Hearing to review the decision and determine if it is appropriate. Agency policy includes procedures to meet the minimal requirements for a fair hearing. Efforts to clarify and resolve the client's concerns start when the agency receives a hearing request and continues through the day of the hearing.

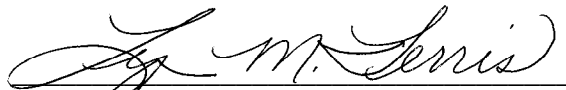
During the hearing, the parties reached an agreement to settle this matter and to have the Department recalculate the over issuance amount for November, December 2009 and January, 2010. As a result of this agreement, Claimant indicated she no longer wished to proceed with the hearing. Since the Claimant and the Department have come to an agreement, it is unnecessary for this Administrative Law Judge to make a decision regarding the facts and issues in this case.

DECISION AND ORDER

The Administrative Law Judge, based upon the agreement and settlement of the parties and findings of fact and conclusions of law, finds that the Department and Claimant have come to a settlement regarding claimant's request for a hearing.

Accordingly, it is ORDERED:

1. The Department will recalculate the over issuance amounts for November, December 2009 and January 2010 to include both earned and unearned income (unemployment benefits) which began January 16, 2010 based on unemployment benefits received by the Claimant in the amount of \$244 a week.
2. The Department shall also include the Claimant's rent and heating expense in the amount of \$555 when computing the amount of the over issuance for these months. The Department is only required to include rent if the claimant provides the verification of rent she pays.
3. The Claimant has 10 days to provide the Department verification of her rent, and also, provide the Department paystubs or proof of income for the last pay in December 2009 (December 25, 2009 and all paystubs for the month of January 2010). If the Claimant requires and requests additional time prior to the expiration of 10 days, the Department will grant the Claimant an extension of time.



Lynn M. Ferris
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 05/06/10

Date Mailed: 05/13/10

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.

LMF/dj

cc:

