

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: 2010-23102
Issue No: 3020
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
March 24, 2010
Livingston County DHS

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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 held March 24, 2010.

ISSUE

Whether the Department of Human Services (Department) properly determined an overissuance of Food Assistance Benefits (FAP) requiring recoupment of funds from the Claimant?

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 is a FAP recipient.
- (2) The Claimant received a monthly FAP allotment of [REDACTED] for July of 2009, and [REDACTED] for the months of August of 2009 through January of 2010. Department Exhibit 15.

(3) On January 14, 2010, the Department sent the Claimant a Notice of Overissuance, showing that the Claimant had received a total overissuance of FAP benefits of [REDACTED] Department Exhibit 5 – 9.

(4) The Claimant testified that on February 16, 2010, at a pre-hearing conference with the Department, the Claimant discovered additional errors in the Department's FAP budgeting calculations.

(5) On January 27, 2010, the Department received Claimant's request for a hearing, protesting the recoupment action being taken against her.

(6) On February 17, 2010, the Department sent the Claimant a Notice of Overissuance, showing that the Claimant had received a total overissuance of FAP benefits of [REDACTED]. Department Exhibit 12 – 16.

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).

An overissuance is the amount of benefits issued to the client group in excess of what they were eligible to receive. BAM 705. The amount of the overissuance is the amount of benefits the group actually received minus the amount the group was eligible to receive. BAM

720. When a client group receives more benefits than they are entitled to receive, the Department must attempt to recoup the overissuance. BAM 700.

Agency errors are caused by incorrect actions by the Department. BAM 705. Agency error overissuances are not pursued if the estimated overissuance is less than \$125 per program. BAM 700. Client errors occur when the customer gave incorrect or incomplete information to the Department. Client errors are not established if the overissuance is less than \$125 unless the client group is active for the overissuance program, or the overissuance is a result of a QC audit finding. BAM 700.

In this case, the Department testified that none of the Claimant's income was budgeted during the period of July 1, 2009 through January 1, 2010 as a result of Department error. However, while the Department offered the "actual" budgets during this period to show that Claimant's income was not included, it did not offer "corrected" budgets to show what the correct benefit amount would have been had the proper amount of income been included for each of the months in question. All that was offered was the Overissuance Summary, which only lists the Amount Issued, Correct Issuance, and Amount Overissued. Without a "corrected" FAP budget, the Department has not established the amount of overissuance in this case. The only explanation of how the Correct Issuance amount was determined was the Department's testimony that it was calculated at the Department's Central Office in Lansing.

Based on the testimony and documentation offered during the hearing, this Administrative Law Judge does not find that the Department established that it properly determined the overissuance that the Claimant received. Therefore, the Department's recoupment action cannot be upheld at this time.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department failed to establish the amount of the alleged overissuance of FAP benefits to the Claimant.

Accordingly, the Department's FAP eligibility determination is REVERSED. It is further ORDERED that the Department shall:

- (1) Determine the Claimant's eligibilty for FAP benefits for the period July 1, 2009 through January 31, 2010.
- (2) Determine whether an overissuance of FAP benefits occurred.
- (3) Provide the Claimant with documentation of how FAP benefits were determined for this period.

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

Date Signed: April 2, 2010

Date Mailed: April 5, 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.

2010-23102/KS

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/vmc

cc:

