

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: 2010-26361
Issue No: 3052
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
May 11, 2010
Genesee County DHS

ADMINISTRATIVE LAW JUDGE: Carmen G. Fahie

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, an in-person hearing was held on Tuesday, May 11, 2010. The claimant personally appeared and testified with his husband, [REDACTED] as a witness.

ISSUE

Did the department properly determine that the claimant received an overissuance of Food Assistance Program (FAP) benefits due to department error that the department is required to recoup?

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 was a recipient of FAP benefits.

(2) On January 23, 2009, the claimant completed and submitted a DHS-1010, Redetermination Form, where she indicated that she was employed at [REDACTED]. (Department Exhibit 1)

(3) Subsequently, the department caseworker at the time discovered that the claimant had previously reported this employment, but the department had failed to budget that income in determining FAP benefits.

(4) On August 7, 2008, the claimant completed a DHS-1171 and once again reported employment at [REDACTED]. (Department Exhibit 2)

(5) On November 14, 2008, the claimant completed a subsequent DHS-1171 and once again reported employment at [REDACTED]. (Department Exhibit 3)

(6) On December 8, 2008, the claimant's employer provided a DSH-38, Employment Form, indicating that the claimant returned to work on September 19, 2008. (Department Exhibit 4)

(7) On December 22, 2009, the department caseworker reviewed the claimant's employment, income, and case information to determine that the claimant received an overissuance of FAP benefits for the contested time period of November 2008 through June 2009 in the amount of [REDACTED] in FAP benefits, but the correct amount based on the claimant's employment was [REDACTED] resulting in an overissuance of [REDACTED]. (Department Exhibit 5, 6, and 7)

(8) On January 4, 2010, the department received a hearing request from the claimant, contesting the department's negative action.

(9) During the hearing, the department provided notices that were sent to the claimant on August 7, 2008 and January 28, 2009 that showed that the department was only counting the claimant's husband's income and not her income. (Department Exhibit A, B)

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. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

OVERISSUANCE THRESHOLD FIP, SDA, CDC and FAP Only

Agency error OIs are not pursued if the estimated OI amount is less than \$125 per program.

Exception: There is no threshold limit on CDC **system** errors. The

RRS in central office will recoup these types of OIs. Client error OIs are not established if the OI amount is less than \$125, unless either:

- The client or provider is active for the OI program.
 - The OI is a result of a quality control (QC) audit finding.
- BAM 700, p. 7

The department has not established that respondent committed an IPV, but the department has established that respondent received an overissuance of benefits that the department is entitled to recoup. The claimant received an overissuance of [REDACTED] in FAP benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department is entitled to recoup the overissuance of benefits the claimant ineligibly received. The claimant is ORDERED to reimburse the department for the overissuance. The claimant received an overissuance of [REDACTED] in FAP benefits that the department is required to recoup.

Accordingly, the department's decision is **AFFIRMED**.

/s/
Carmen G. Fahie
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: May 25, 2010

Date Mailed: May 25, 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.

CGF/vc

cc:

[REDACTED]