

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: 2010-29959
Issue No: 3052
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
May 11, 2010
Genessee County DHS

ADMINISTRATIVE LAW JUDGE: Kevin Scully

HEARING DECISION

This matter is before the undersigned Administrative Law Judge by authority of MCL 400.9 and MCL 400.37. Claimant's request for a hearing was received on January 21, 2010. After due notice, a telephone hearing was held on Tuesday, May 11, 2010.

ISSUE

Whether the Department of Human Services (Department) properly determined that the Claimant received an overissuance of Food Assistance Program (FAP) benefits?

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 applied for FAP benefits on February 21, 2006. Department Exhibit 1 – 7.
- (2) The Claimant did not report any income on his FAP application. Department Exhibit 3.

(3) The Department later discovered that the Claimant received earned income from October 30, 2005, through August 6, 2006. Department Exhibit 30.

(4) The Department notified the Claimant that he had received an overissuance of FAP benefits for [REDACTED]

(5) The Department received the Claimant's request for a hearing, protesting the Department's recoupment of an alleged overissuance of FAP benefits.

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).

For FAP purposes, all earned and unearned income available to the Claimant is countable. Earned income means income received from another person or organization or from self-employment for duties for duties that were performed for compensation or profit. Unearned income means all income that is not earned, including but not limited to funds received from the Family Independence Program (FIP), State Disability Assistance (SDA), Child Development and Care (CDC), Medicaid (MA), Social Security Benefits (RSDI/SSI), Veterans Administration (VA), Unemployment Compensation Benefits (UCB), Adult Medical Program (AMA), alimony, and child support payments. The amount counted may be more than the client actually receives because the gross amount is used prior to any deductions. BEM 500.

The Department determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. Actual income is income that was already received. Prospective income is income not yet received but expected. Prospective budgeting is the best estimate of the client's future income. BEM 505.

All income is converted to a standard monthly amount. If the client is paid weekly, the Department multiplies the average weekly amount by 4.3. If the client is paid every other week, the Department multiplies the average bi-weekly amount by 2.15. BEM 505.

Clients must cooperate with the local office in determining initial and ongoing eligibility. This includes the completion of necessary forms. BAM 105, p. 5. Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. BAM 130, p. 1. Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level when it is required by policy, required as a local office option, or information regarding an eligibility factor is unclear, inconsistent, incomplete, or contradictory. BAM 130, p. 1. The Department uses documents, collateral contacts, or home calls to verify information. BAM 130, p. 1. A collateral contact is a direct contact with a person, organization, or agency to verify information from the client. BAM 130, p. 2. When documentation is not available, or clarification is needed, collateral contact may be necessary. BAM 130, p. 2.

The Claimant applied for FAP benefits on February 21, 2006, but did not include any income on this application. The Department completed a FAP budget, and issued FAP benefits from February 1, 2006, through August 31, 2006. Later the Department discovered that the Claimant had actually received earned income in the gross amount of [REDACTED] during that same period. Because the Department had not included earned income in the Claimant's FAP budget,

it issued a total of [REDACTED] to the Claimant when he had only been entitled to [REDACTED]. When the Department discovered that it had issued FAP benefits totaling [REDACTED] that the Claimant was not entitled to, it notified him that it would initiate an effort to recoup the funds.

The Claimant did not dispute that his application for FAP benefits did not include earned income. However, the Claimant disputed the amount of earned income discovered by the Department, and claimed that a portion of what the Department had attributed to earned income was actually disability insurance proceeds. The Claimant testified that he could produce evidence supporting his claim, but that he did not have the evidence at the hearing. The hearing record was held open until May 14, 2010, to allow the Claimant to submit his evidence, but as of May 17, 2010, no additional information was received.

This Administrative Law Judge finds that the Department has established that the Claimant received unreported income, and that it acted in accordance with policy determining that the Claimant received FAP benefits totaling [REDACTED] that he was not entitled to receive.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department acted in accordance with policy when it determined that the Claimant received FAP benefits totaling [REDACTED] that he was not entitled to receive.

The Department's recoupment of the overissuance of FAP benefits in the amount of [REDACTED] is AFFIRMED. It is SO ORDERED.

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

Date Signed: May 20, 2010

Date Mailed: May 21, 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.

KS/vc

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