

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: 2010-30942
Issue No: 3020
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
May 13, 2010
Kent 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 April 5, 2010. After due notice, a telephone hearing was held on Thursday, May 13, 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 received FAP benefits.
- (2) The Department completed a FAP budget on March 15, 2010, that determined that the Claimant was entitled to a FAP allotment of [REDACTED] for the month of June 2009.

(3) Due to Department error, the Department had issued the Claimant a FAP allotment of [REDACTED] for the month of June 2009.

(4) The Department received the Claimant's request for a hearing on April 5, 2010, protesting the reduction of her 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.

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.

Department errors are caused by incorrect actions by the Department. BAM 705. Department error overissuances are not pursued if the estimated overissuance is less than [REDACTED] 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 [REDACTED] 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 completed a FAP budget for June of 2009 that determined that the Claimant was eligible for a FAP allotment of [REDACTED]. This budget was based on a net income of [REDACTED]. On March 15, 2010, the Department revised its budget determination for June of 2009 so that she was only eligible for a FAP allotment of [REDACTED] and a difference of [REDACTED] in net income. The Department attributes this change to an error in the manner the Claimant's child support income was entered into the FAP budget, and the result was an alleged FAP overissuance of [REDACTED].

The Department provided documentation of the Claimant's child support income. Because the child support income is variable, the Department used a three-month average of child support income. However, the child support documentation provided by the Department lists child support received by the Claimant for the months December 2009, January 2010, and February 2010. This information cannot be used to support the Department's recoupment action for an alleged overissuance of FAP benefits in June of 2009.

The Department has failed to establish that it issued FAP benefits to the Claimant that she was not eligible to receive.

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 that the Claimant received an overissuance of FAP benefits for June of 2009.

Accordingly, the Department's FAP eligibility determination for June of 2009 and recoupment of FAP overissuance is REVERSED. It is further ORDERED that the Department shall redetermine FAP eligibility for June of 2009.

/s/ _____
Kevin Scully
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.

KS/vc

cc: 