

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: 2010-30984
Issue No: 3052
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 3, 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 applied for FAP benefits on April 22, 2009. Department Exhibit 6.
- (2) The Department completed a FAP budget that determined that the Claimant was entitled to a FAP allotment of [REDACTED] for April 2009. Department Exhibit 57.

(3) The Department later discovered earned income that had not been included in the FAP budget for April 2009. This income was reported to the Department as gross earned income of [REDACTED] on April 16, 2009, and [REDACTED] on April 2, 2009. Department Exhibit 28.

(4) The Claimant's earned income for April 2009 was actually [REDACTED] and [REDACTED]. Claimant Exhibit.

(5) On March 25, 2010, the Department completed a FAP budget using the previously unreported earned income, and determined that the Claimant was not eligible for FAP benefits due to excess income. Department Exhibit 37.

(6) The Department received the Claimant's request for a hearing on April 3, 2010, protesting a recoupment 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 Claimant applied for FAP benefits on April 22, 2009. The Department approved the Claimant for a FAP allotment of [REDACTED] for April of 2009, but did not include earned income in the FAP budget due to Department error. On March 25, 2010, the Department was aware of the earned income from April of 2009, and determined that the Claimant had received benefits she was not entitled to receive. The Department relied on a form completed by the employer of a FAP group member to determine the amount of earned income. Based on evidence submitted during the hearing, it was discovered that income reported as bi-weekly on April 16, 2009, is actually the total income for the month of April. This resulted in the Claimant's income being over-reported in the FAP budget. The Department did not dispute that the income data it relied on to determine the amount of the overissuance of benefits was incorrect.

This Administrative Law Judge finds that the Department relied on an incorrect listing of income received by a member of the Claimant's FAP group. Therefore, the Department's determination of the amount of recoupment cannot be relied upon.

DECISION AND ORDER

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

The Department's recoupment of FAP benefits is REVERSED. It is further ORDERED that the Department shall:

1. Determine the Claimant's eligibility for FAP benefits from April 1, 2009, through January 31, 2010.
2. Issue the Claimant any retroactive FAP benefits, if any, she may be eligible to receive.
3. Determine if a recoupment of an overissuance of FAP benefits is necessary.
4. Notify the Claimant in writing of the Department's FAP eligibility determination.

/s/

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

Date Signed: May 28, 2010

Date Mailed: May 28, 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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