

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: 201031004

Issue No: 3052,3003

Case No:

[REDACTED]

Load No:

Hearing Date:

May 17, 2010

Macomb County DHS

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Claimant's request for a hearing. After due notice, a telephone hearing was held on May 17, 2010. The Claimant appeared and testified. [REDACTED] appeared on behalf of the Department.

ISSUE

Was the Department correct in determining Claimant's FAP benefits, and in determining an overissuance of Claimant's FAP benefits, and for seeking recoupment?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

- (1) Claimant was an on-going recipient of FAP benefits.
- (2) On March 3, 2010 the Department determined that an overissuance had occurred due to Department error.

- (3) On March 4, 2010 the Department determined that Claimant was entitled to \$99 per month in Food Assistance.
- (4) Claimant has \$1502 in unearned income from social security benefits.
- (5) Claimant has \$61 in medical expense.
- (6) Claimant pays \$515 in rent and is responsible for utilities.
- (7) Claimant requested a hearing on March 16, 2010 contesting the overissuance determination and recoupment of FAP benefits and contesting the determination her FAP benefits.
- (8) The Department agreed at hearing that the overissuance of FAP benefits was less than \$125, that recoupment was not warranted and that all benefits recouped by the Department would be returned to the Claimant.

CONCLUSIONS OF LAW

The Food Assistance Program, 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”), formally known as the Family Independence Agency, administers the FAP program pursuant to MCL 400.10, *et seq* and MAC R 400.3001-3015. Departmental policies are found in the Bridges Administrative Manual (“BAM”), the Bridges Eligibility Manual (“BEM”), and the Program Reference Manual (“PRM”).

When a client group receives more benefits than they are entitled to receive, DHS must attempt to recoup the over issuance (OI) if the overissuance is greater than \$125. BPB 2010-005. The amount of the OI is the amount of benefits the group or provider actually received minus the amount the group was eligible to receive. BAM 720, p. 6.

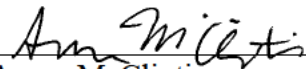
Under Bridges Administrative Manual Item 600, clients have the right to contest any agency decision affecting eligibility or benefit levels whenever they believe the decision is illegal. The agency provides an Administrative Hearing to review the decision and determine if it is appropriate. Agency policy includes procedures to meet the minimal requirements for a fair hearing. Efforts to clarify and resolve the client's concerns start when the agency receives a hearing request and continues through the day of the hearing. The federal regulations define household income to include all earned income. 7 CFR 273.9(b). All monthly income must be converted to a nonfluctuating monthly amount. Only 80% of earned income is counted in determining FAP benefits. BEM 550. Under 7 CFR 273.9, as amended, \$132.00 is deducted from the gross income of FAP recipients in determining FAP grants.

In the present case, Claimant has \$1502 unearned income from social security benefits. The standard deduction of \$132 and \$61 for medical expenses was subtracted from \$1502 resulting in adjusted income of \$1309. Claimant also qualified for an excess shelter deduction of \$416 as her shelter expenses of \$1070 (\$515 rent plus \$555 utility) was in excess of \$654 (50 percent of \$1309, income after prior deductions were made.) by \$416 Subtracting \$416 from \$1309 results with \$893. The Food Assistant Issuance Table shows \$99 in benefit for \$893 net income for a household of 2. RFT 260. This is the amount determined by the Department and it is correct.

In the present case, the Department agreed that any overissuance was due to Department error and was less than \$125. The Department further agreed that recoupment was inappropriate and that any monies recouped from the Claimant would be returned to her.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that Claimant did not receive overissuances in FAP program benefits due to agency error that were over \$125, and it is ORDERED that the Department's decision in this regard be and is hereby REVERSED. Any monies recouped from Claimant shall be returned to her in the form of a supplement. This Administrative Law Judge further finds that the determination of Claimant's FAP benefits was correct and is hereby AFFIRMED.

/s/  _____
Aaron McClintic
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: June 7, 2010

Date Mailed: June 7, 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.

AM/htw

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