

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: 2010-31030

Issue No: 3020

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

May 19, 2010

Washtenaw County DHS

ADMINISTRATIVE LAW JUDGE:

Steven M. Brown

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, a telephone hearing was conducted from Lansing, Michigan on May 19, 2010.

ISSUE

Whether the Department made an error in computing Food Assistance Program (FAP) and Child Development and Care (CDC) eligibility which resulted in an overissuance (OI) to Claimant that the Department is entitled to recoup?

FINDINGS OF FACT

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

(1) On November 25, 2009, the Department mailed Claimant a Notice of Overissuance which stated that she was overissued FAP benefits in the amount of [REDACTED] from 08/01/2009, to 09/30/09 due to agency error. (Exhibits 2, 6)

(2) On November 25, 2009, the Department mailed Claimant a Notice of Overissuance which stated that she was overissued CDC benefits in the amount of [REDACTED] from 07/05/2009, to 11/07/09 due to agency error. (Exhibits 1, 5)

(3) On December 7, 2009, the Department received Claimant's hearing request protesting the Department's request for repayment of the alleged FAP and CDC OIs. (Exhibits 3, 3A)

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. Departmental policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Bridges Reference Manual (BRM).

An OI is the amount of benefits issued to the client group or CDC provider in excess of what they were eligible to receive. When a client receives more benefits than they are entitled to receive, DHS must attempt to recoup the OI. Recoupment is a DHS action to identify and recover a benefit OI. BAM 700, p. 1

Agency errors are caused by incorrect actions (including delayed or no action) by DHS. Some examples include: available information was not used or was used incorrectly, policy was misapplied, action by local or central office was delayed, computer errors occurred, information

was not shared between department divisions, data exchange reports were not acted upon timely, etc. BAM 700, p. 3 Client errors occur when the client received more benefits than they were entitled to because the client gave incorrect or incomplete information to the Department. BAM 700, p. 5

In the instant case, the Department offered exhibits at and after hearing. The Department offered the Notice of Overissuance (NOO) and the Overissuance Summary (OS) at hearing. After hearing, the Department offered paycheck stubs from August 2009, Eligibility Summaries and June 2009 and November 2009 FAP budgets. The Department did not offer any CDC budgets. The NOO and OS state the total amount of the alleged overissuance as well as the amount issued and the correct issuance for each month for each program. However, those documents do not show how the Department made its calculation for the amount issued, the “correct” issuance and the resulting overissuance. The Department offered some more documentation after hearing, but the documents still do not explain and/or support its position on the overissuances to the point of meeting its burden.

With the above said, the Department has not met its burden in establishing that it acted in accordance with policy in seeking recoupment of FAP and CDC benefits overissued to Claimant as a result of agency error.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, does not find that the Department acted in accordance with policy in requesting repayment of an overissuance of FAP and CDC benefits to Claimant.

Accordingly, the Department's FAP and CDC eligibility determinations are REVERSED, it is SO ORDERED. The Department's request for recoupment of an alleged FAP and CDC overissuances to Claimant is denied.

/s/

Steven M. Brown
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: June 9, 2010

Date Mailed: June 9, 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.

SMB/vc

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