

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: 2010-31171

Issue No: 3020, 3052

Case No:

[REDACTED]

Load No:

Hearing Date:

May 13, 2010

Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 conducted from Detroit, Michigan on May 13, 2010. The Claimant appeared and testified at the hearing. Ronald Phillips, ES and Avery Smith, FIM appeared on behalf of the Department.

ISSUE

Whether the Department is entitled to reduce Claimant's FAP benefits in order to recoup for a \$200.00 FAP over-issuance.

FINDINGS OF FACT

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

1. The Claimant was an active FAP recipient.

2. On 9/14/09, the Department determined that the claimant had earned income of \$150 every two weeks, as reported during the Claimant's 6 month review.
3. The claimant testified that she had received and reported income from the child care job prior to September 14, 2009, as she has had the job for several years.
4. The Department sought a \$200 over-issuance recoupment and began deducting \$20.00 from the Claimant's monthly FAP allowance.
5. The Claimant indicated that \$20 was taken out of her FAP allowance beginning December 2009, January, February, March, and May 2010 for a total of \$100 in recoupment.
6. The Department provided a Benefit Summary Inquiry which indicated that a \$20 recoupment amount was taken from the Claimant's FAP benefits for the months of February, March and May 2010 for a total of \$60.00.
7. The Department's hearing summary indicated that recoupment was initiated on December 1, 2009.
8. The Department sent a Notice of Case Action to the Claimant on April 6, 2010 indicating that \$20 was the over-issuance amount, which would be deducted from the Claimant's FAP allowance and does not indicate what action, if any, was taken and when the recoupment would stop. Claimant's Exhibit 1
9. The month the over-issuance allegedly began and ended was not known or provided by way of over-issuance summary or other document.
10. The Department did not provide an over-issuance summary to demonstrate the months it was entitled to recoup FAP benefits from the Claimant.

11. The Department did not provide information to demonstrate the amount of FAP benefits the Claimant received during the months of over-issuance.
12. It was unclear, based upon the information submitted, as to whether the over-issuance occurred as a result of Agency error or Client error and the period of over-issuance.
13. On April 16, 2010, the Department received the Claimant's written request for a hearing protesting the proposed recoupment action.
14. The record was held open until the end of business May 13, 2010 to allow the Department to submit additional information as it deemed appropriate.

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 Reference Table ("RFT").

In this case, the Department seeks recoupment of an over-issuance of FAP benefits in the amount of \$200 due to the Claimant's alleged failure to report income. The Department has not established that the Claimant failed to report her income. Further, the Department has not established the over-issuance and, consequently, its right to recoupment. Under BAM 720, the amount of the over-issuance is the amount of benefits the group actually received minus the amount the group was eligible to receive. The Department did not present this information.

An over-issuance (“OI”) occurs when a client group receives more benefits than they are entitled to receive. BAM 700, p. 1. A claim is the resulting debt created by the overissuance of benefits (OI). Id. Recoupment is an action to identify and recover a benefit. Id. The Department must take reasonable steps to promptly correct any overpayment of public assistance benefits, whether due to department or client error. BAMs 700, 705, 715, and 725. An agency error OI is caused by incorrect actions by DHS, DIT staff, or department processes. BAM 705, p. 1. In general, agency error OIs are not pursued if OI amount is under \$500.00 per program. BAM 705, pp. 1-3. The policy officially changed to allow recoupment under \$125.00 effective January 1, 2010.

In the subject case, because the record does not substantiate the amount of the over issuance and the time period involved, the department is not entitled to recoup the FAP benefits the Claimant allegedly should not have received.


The undersigned has reviewed the file and the information submitted and cannot make a factual determination that there was a FAP over-issuance that is currently being recouped from Claimant’s FAP benefits. Accordingly, the Department’s Over-issuance and recoupment action is REVERSED.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department did not substantiate, by the evidence it presented, that an over-issuance of FAP benefits occurred and thus is not entitled to a recoupment of the Claimant’s FAP benefits.

It is, therefore, ORDERED that the OI and recoupment is REVERSED.

It is further ORDERED that the Department shall supplement the Claimant for any monies that were already recouped by the Department commencing the month of December 2009 through the date of the hearing due to the alleged over-issuance.



Lynn M. Ferris
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 05/25/10

Date Mailed: 05/26/10

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.

LMF/dj

cc:

