

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: 2010-32092
Issue No: 3052
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
May 18, 2010
Van Buren 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 8, 2010. After due notice, a telephone hearing was held on Tuesday, May 18, 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 receives FAP benefits as a group of five.
- (2) The Claimant receives monthly-earned income in the gross amount of [REDACTED].

Department Exhibit 1.

(3) The Claimant receives monthly-earned income in the gross amount of [REDACTED].

Department Exhibit 2.

(4) The Claimant has monthly housing expenses of [REDACTED].

(5) The Department completed FAP budget for December of 2009 that did not include earned income, and granted the Claimant a monthly FAP allotment of [REDACTED]. Department Exhibit 5.

(6) The Department later completed a FAP budget that included earned income, which determined that the Claimant was not eligible for FAP benefits due to excess income.

(7) On March 30, 2010, the Department notified the Claimant that it would recoup FAP benefits granted from December 2009, through April 2010, that the Claimant was not eligible to receive.

(8) The Department received the Client's request for a hearing on April 8, 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 Department determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. Actual income is income that was already received. Prospective income is income not yet received but expected. Prospective budgeting is the best estimate of the client's future income. BEM 505.

Clients must cooperate with the local office in determining initial and ongoing eligibility. This includes the completion of necessary forms. BAM 105, p. 5. Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. BAM 130, p. 1. Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level when it is required by policy, required as a local office option, or information regarding an eligibility factor is unclear, inconsistent, incomplete, or contradictory. BAM 130, p. 1. The Department uses documents, collateral contacts, or home calls to verify information. BAM 130, p. 1. A collateral contact is a direct contact with a person, organization, or agency to verify information from the client. BAM 130, p. 2. When documentation is not available, or clarification is needed, collateral contact may be necessary. BAM 130, p. 2.

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.

Agency errors are caused by incorrect actions by the Department. BAM 705. Agency 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.

The Department completed a FAP budget for December of 2009, using only [REDACTED] in unearned income, and no earned income. The Department reduced this amount by the standard deduction of [REDACTED] for a group of five, and the excess shelter expense maximum of [REDACTED] to determine the Claimant's net income of [REDACTED]. This entitled the Claimant to a monthly FAP allotment of [REDACTED].

When the Department discovered that it has mistakenly failed to include earned income in the Claimant's FAP budget, it created a new FAP budget. This new budget included [REDACTED] of earned income and [REDACTED] in unearned income. This income was reduced by 20% of the earned income, and the standard deduction of [REDACTED] for a group of five to determine an adjusted gross income of [REDACTED]. The Claimant's excess shelter deduction of [REDACTED] was determined by adding his monthly housing expense of [REDACTED] to the standard heat and utility standard of [REDACTED], and subtracting half of the adjusted gross income. A net income of [REDACTED] was

determined by subtracting the excess shelter deduction from the adjusted gross income, which caused the Claimant to be ineligible for FAP benefits based on excess income.

Due to the Department's miscalculation of his net income, he received a FAP allotment of [REDACTED] when he was not eligible to receive FAP benefits. This Department did not correct its error until the Claimant had received FAP benefits for five months, and a total FAP allotment of [REDACTED] that he was not eligible to receive.

This Administrative Law Judge finds that the Department properly determined that the Claimant received FAP benefits he was not eligible to receive due to Department error for a period of five months, and that the Department is entitled to a recoupment of [REDACTED]

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department established that it properly determined that the Claimant received a [REDACTED] overissuance of FAP benefits due to Department error.

The Department's recoupment of [REDACTED] is AFFIRMED. It is SO ORDERED.

/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.

2010-32092/KS

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:

