

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 32103
Issue No: 3052,3020
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
May 20, 2010
Oakland 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 20, 2010. The Claimant appeared and testified at the hearing. Dawn Gaffke, FIM and Alison Yager, ES appeared on behalf of the Department.

ISSUE

Whether the Department is entitled to reduce Claimant's FAP benefits in order to recoup for a \$376.00 FAP over-issuance for the period from 1/1/10 through 2/28/10 due to the Department's failure to properly include Claimant's updated group earned income.

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. As a result of filing an application for Medical Assistance on March 17, 2010, the Department recalculated the Claimant's Food Assistance budget to include the Claimant's wife's Social Security income. Exhibit 2
3. The Agency made an error and did not include the claimant's wife's income when the claimant first advised his worker.
4. The original budget was completely erroneous in that it included no income or any shelter allowance information. Exhibit 1
5. As a result of the additional social security income, the Claimant's FAP benefits were decreased from \$204 a month to \$16.00 a month. Exhibit 2
6. The Claimant confirmed the amount of his groups gross monthly income of \$1872. Exhibit 2
7. As a result of this Agency error, the Claimant was overissued \$376.00 in Food Assistance benefits. Exhibit 4
8. On May 1, 2010, pursuant to its Notice of Case Action dated March 30, 2010, the Department began recouping \$10.00 a month from the Claimant's FAP benefits. Exhibit 3
9. On April 8, 2010, the Department received the Claimant's written request for a hearing protesting the proposed recoupment action.

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 due to the Department’s failure to include Claimant’s updated group unearned income in the FAP budget. 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, the Department paid FAP benefits without including the reported additional unearned income received by the Claimant’s wife, based on the Department’s failure to include the updated unearned income in the FAP budget. The undersigned has reviewed the FAP budget and found that there was an over-issuance in the amount of \$376 (\$188 per month), beginning January 1, 2010 through February 28, 2010, that is currently being recouped from Claimant’s FAP benefits. Accordingly, the Department’s OI and recoupment action is AFFIRMED.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department properly calculated the Claimant’s FAP benefits to be overpaid

for the period 1/1/10 – 2/28/10. It is, therefore, ORDERED that the OI and recoupment is AFFIRMED.



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

Date Signed: 05/28/10

Date Mailed: 06/04/10

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:

