

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: 2010-32189
Issue No: 3015; 3020; 6019
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
May 25, 2010
Lapeer 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 25, 2010.

ISSUES

- (1) Whether the Department properly determined Claimant's Food Assistance Program (FAP) and Child Development and Care (CDC) eligibility?
- (2) Whether the Department made an error in computing Claimant's FAP and 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) Claimant was a FAP and CDC recipient.

(2) Claimant timely submitted paycheck stubs to the Department in the following amounts - [REDACTED]

(Exhibits 15-18)

(3) In November 2009, Claimant received [REDACTED] (prorated) in FAP benefits based on [REDACTED] of earned income. (Exhibits 11, 12)

(4) In December 2009, Claimant received [REDACTED] in FAP benefits based on [REDACTED] of earned income. (Exhibits 9, 10)

(5) In January and February 2010, Claimant received [REDACTED] in FAP benefits based on [REDACTED] of earned income. (Exhibits 7, 8)

(6) In March and April 2010, Claimant received [REDACTED] in FAP benefits based on [REDACTED] in earned income and [REDACTED] in unearned income (child support). (Exhibits 3, 4)

(7) The Department completed a new FAP budget for May 2010 to include [REDACTED] in earned income and [REDACTED] in unearned income which resulted in excess income and an award of \$0 in FAP benefits. (Exhibits 1, 2)

(8) On April 14, 2010, the Department mailed Claimant a Notice of Case Action which informed Claimant that her FAP and CDC cases would close effective May 1, 2010 and May, 9, 2010, respectively, due to her gross income exceeding the limit. (Exhibits 31-34)

(9) On April 14, 2010, the Department mailed Claimant a Notice of Overissuance which stated that she was overissued FAP benefits from February 1, 2010 to April 30, 2009 due to agency error. (Exhibit 35)

(10) On April 14, 2010, the Department mailed Claimant a Notice of Overissuance which stated that she was overissued CDC benefits from January 1, 2010 to March 31, 2009 due to agency error. (Exhibit 36)

(11) On April 19, 2010, the Department received Claimant's hearing request protesting the closure of her FAP and CDC cases and Department's request for repayment of the alleged FAP and CDC OIs.

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).

The Child Development and Care program is established by Titles IVA, IVE and XX of the Social Security Act, the Child Care and Development Block Grant of 1990, and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The program is implemented by Title 45 of the Code of Federal Regulations, Parts 98 and 99. The Department of Human Services (DHS or department) provides services to adults and children pursuant to MCL 400.14(1) and MAC R 400.5001-5015. Department policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) 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 that were performed for remuneration or profit. Unearned income means ALL income that is not earned and includes FIP, RSDI, SSI and UB. 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

All income is converted to a standard monthly amount. If the client is paid weekly, the Department multiplies the average weekly amount by 4.3. If the client is paid every other week, the Department multiplies the average bi-weekly amount by 2.15. BEM 505

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, there is no question that the Department made several errors in budgeting Claimant's income over a several month period. Those errors were corrected in May 2010. The Department used the November and December paycheck stubs to determine Claimant's FAP May eligibility. Claimant's February and March paycheck stubs are very similar to the November and December paycheck stubs and Claimant did not report any change in income to the Department or at hearing. Claimant's income far exceeds the limit for FAP eligibility. As to the issue of overissuance, the Department's position is that Claimant received [REDACTED] in February and [REDACTED] in March and April that she was not entitled to due to its errors and it must attempt to recoup it per Department policy. There is also no question from a review of the FAP budgets submitted that Claimant would not have been entitled to FAP benefits in any of these months.

The Department did not offer any CDC budgets so it is impossible for the undersigned to determine whether the Department properly terminated Claimant's CDC benefits or is properly requesting recoupment of an overissuance of CDC benefits.

With the above said, I find that the Department acted in accordance with policy in determining Claimant's FAP eligibility and requesting repayment of an overissuance of FAP benefits to her. I do not find that the Department met its burden in establishing that it acted in accordance with policy in determining Claimant's CDC eligibility and seeking recoupment of 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, finds that the Department acted in accordance with policy in determining Claimant's FAP eligibility and requesting repayment of an overissuance of FAP benefits to her as a result of agency error. The undersigned does not find that the Department acted in accordance with policy in determining Claimant's CDC eligibility and requesting repayment of CDC benefits overissued to her as a result of agency error.

Accordingly, the Department's FAP eligibility determinations are AFFIRMED. The Department's CDC eligibility determinations are REVERSED, it is SO ORDERED. The Department shall:

- (1) Complete a CDC budget with Claimant's correct earned and unearned income to determine Claimant's CDC eligibility from May 9, 2010 forward.
- (2) Issue Claimant supplemental benefits she is entitled to, if any.
- (3) Notify Claimant in writing of the Department's revised determination.
- (4) Claimant retains the right to request a hearing if she would like to contest the Department's revised determination.
- (5) The Department's request for recoupment of an alleged CDC overissuance to Claimant is denied.

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

Date Signed: June 10, 2010

Date Mailed: June 11, 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

cc:

