

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.: 201032895

Issue No.: 3002, 3020

Case No.: [REDACTED]

Load No.: [REDACTED]

Hearing Date:

May 26, 2010

Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Jeanne M. VanderHeide

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 on May 26, 2010. The Claimant appeared and testified. [REDACTED], FIS appeared on behalf of the Department.

ISSUE

Whether the Department properly calculated the Claimant's Food Assistance ("FAP") benefits for the time period 9/1/09 – 4/1/10 resulting in an overissuance and recoupment.

FINDINGS OF FACT

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

1. The Claimant is an active FAP recipient.
2. Claimant was receiving FAP benefits of \$167.00. (Exhibit 2)

3. At redetermination effective 5/1/10, the Department discovered an overpayment of FAP benefits of \$16.00 per month totaling \$128.00 which is currently being recouped from Claimant. (Exhibit 3).
4. Claimant testified that she has a household group of one (1) person.
5. The Claimant testified that the household has unearned income of \$694.00 in SSI per month. Claimant's application shows an additional \$14.00 every three months.
6. The Claimant testified that she has a rent obligation of \$180.00 per month and is also responsible for payment of electric and phone utilities in the home.
7. Claimant objected to the FAP calculation and overissuance and filed this appeal. The Department received the Claimant's Request for Hearing on April 22, 2010.

#### 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"), formerly 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 Tables ("RFT").

The federal regulations define household income to include all earned and unearned income. 7 CFR 273.9(b). All monthly income must be converted to a nonfluctuating monthly amount. Only 80% of earned income is counted in determining FAP benefits. BEM 550. Under 7 CFR 273.9, as amended, \$132.00 is deducted from the gross income of FAP recipients in determining FAP grants. A non-categorically eligible Senior/Disabled/Veteran (SDV) FAP

group must have income below the net income limits. BEM 550. After March 1, 2010, all households will receive the heat/utility standard based on current or future receipt of LIHEAP funds. BPB 2010-008. The standard deductions are a set amount that is applied regardless of the actual expenses incurred by the Claimant.

When calculating the benefit amount, according to PEM/BEM 556, the Shelter set offs are added together to equal A. The income after deductions is divided by two and equals B.  $A - B = C$ . The lesser of C or the maximum shelter amount set forth in RFT 255 will be deducted from the reduced income in determining the final net amount. The amount of food assistance allotment is established by regulations at 7 CFR 273.10 based on a group's net income.

**A. 9/1/09 – 2/28/10**

In the present case, according to the aforementioned policy on budgeting and the budget provided by the Department (Exhibit 2), the Claimant was issued a shelter deduction of \$466.00 for the subject period. Claimant, therefore, has a net monthly income of \$103.00. This was obtained by subtracting the standard deduction of \$132.00 and the excess shelter amount of \$466.00 from the gross income of \$701.00. A household of one person with a net monthly income of \$103.00 is entitled to a monthly FAP grant of \$169.00 per month. RFT 260.

**B. 3/1/10 – 4/30/10**

As of 3/1/10, Claimant qualified for the full utility standard. In the present case, according to the aforementioned policy on budgeting, Claimant's shelter costs equal  $\$180.00 + \$555.00 = \$735.00$  (A).  $50\%$  of the income less deductions =  $\$266.00$  (B).  $(A - \$735) - (B - \$266) = \$469.00$ . There is no shelter maximum for Claimant as she is disabled. Claimant, therefore, has a net monthly income of \$93.00. This was obtained by subtracting the standard deduction of \$132.00 and the excess shelter amount of \$469.00 from the gross income of

\$694.00. A household of one person with a net monthly income of \$93.00 is entitled to a monthly FAP grant of \$172.00 per month. RFT 260.

### C. Recoupment

In this case, the Department seeks recoupment of an over-issuance of FAP benefits due to the Department's failure to properly include Claimant's income in the FAP budgets. 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 \$125.00 per program. BAM 705, pp. 1-3. If improper budgeting of income caused the OI, use actual income for the past OI month for that income source. BAM 705, p. 6.

Based on the evidence and testimony presented on the record, the undersigned finds that the Claimant provided notice of her income. Claimant was paid FAP benefits as follows:

Month	FAP Issued	Correct FAP Amount	Over/Under Issuance
September, 2009	\$167.00	\$169.00	-\$2.00
October, 2009	\$167.00	\$169.00	-\$2.00
November, 2009	\$167.00	\$169.00	-\$2.00
December, 2009	\$167.00	\$169.00	-\$2.00
January, 2010	\$167.00	\$169.00	-\$2.00
February, 2010	\$167.00	\$169.00	-\$2.00
March, 2010	\$167.00	\$172.00	-\$5.00
April, 2010	\$167.00	\$172.00	-\$5.00


Claimant, therefore, has been underpaid \$22.00 in FAP benefits. It is interesting to note that Claimant testified that her 4/1/09 award letter indicated that she had unearned income from SSI. However, the budget run by Bridges for 9/1/09-2/28/10 does not show any income. Nor does the budget for 5/1/10-4/30/12 show any shelter deduction. Accordingly, based on the findings of fact and rules of law above, the Department's FAP OI and recoupment actions are DENIED.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department improperly calculated the Claimant's FAP allotment.

Accordingly, it is ORDERED that:

1. The Department's FAP OI and Recoupment for \$128.00 effective 6/1/10 is REVERSED.
2. The Department shall cease any recoupment action and reimburse Claimant for any monies already recouped.
3. The Department shall supplement Claimant's FAP benefits in the amount of \$22.00 per the budget set forth above.
4. The Department shall recalculate Claimant's FAP benefits from 6/1/10 forward to include a shelter deduction as set forth above.

/s/   
Jeanne M. VanderHeide  
Administrative Law Judge  
for Ismael Ahmed, Director  
Department of Human Services

Date Signed: June 17, 2010

Date Mailed June 17, 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.

JV/htw

cc:

