

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.: 2010-34645  
2010-34649  
Issue No.: 3052/4019  
Case No.: [REDACTED]  
Load No.: [REDACTED]  
Hearing Date:  
June 24, 2010  
Washtenaw County DHS (20)

ADMINISTRATIVE LAW JUDGE: Colleen M. Mamelka

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 hearing was held in Ypsilanti, Michigan on Thursday, June 24, 2010. The Claimant appeared and testified. The Claimant was represented by [REDACTED] of [REDACTED]. [REDACTED] and [REDACTED] appeared on behalf of the Department.

ISSUE

Whether the Department is entitled to recoup a \$596.00 FAP over-issuance and a \$1,614.00 SDA overissuance for the period from September 2009 through March 2010 due to Department error?

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 is a FAP recipient.

2. The Claimant began receipt of SSI benefits effective August 1, 2009.
3. The Claimant received SDA benefits for the period from September 2009 through March 2010.
4. In September 2009, the Department was notified of the SSI benefits but did not make a determination of FAP and/or SDA continued eligibility.
5. Due to Agency error, the Claimant received a \$596.00 FAP overissuance.
6. Due to Agency error, the Claimant received a \$1,614.00 SDA overissuance.
7. On March 23, 2010, the Department sent the Claimant a Notice of Overissuance for both programs. (Exhibit 1)
8. On April 29, 2010, the Department received the Claimant's written request for hearing. (Exhibit 2)

#### 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 Bridges Reference Manual ("BRM").

The State Disability Assistance ("SDA") program, which provides financial assistance for disabled persons, was established by 2004 PA 344. DHS administers the SDA program pursuant to MCL 400.10 *et seq.* and Michigan Administrative Code ("MAC R") 400.3151 –

400.3180. Department policies are found in the BAM, BEM, and the BRM. For FAP and SDA purposes, all earned and unearned income available to the Claimant is countable. BEM 500

In this case, the Department seeks recoupment of an overissuance of FAP and SDA benefits due to Agency error. An over-issuance (“OI”) occurs when a client group receives more benefits than they are entitled to receive. BAM 700 A claim is the resulting debt created by the overissuance of benefits. BAM 700 Recoupment is an action to identify and recover a benefit OI. BAM 700 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 In general, agency error OIs are not pursued if OI amount is under \$125.00 per program. BEM 705

In this case, the Department was notified that the Claimant began receiving SSI benefits effective August 1, 2009. The Department failed to budget the unearned income resulting in an overissuance of FAP and SDA benefits for the period from September 2009 through March 2010. Although the overissuance is due to Agency error, the Department is entitled to recoupment because the overissuance under each program is more than \$125.00. Ultimately, the Department established it acted in accordance with department policy when it sought recoupment of the overissued FAP and SDA benefits. Accordingly, the Department’s determinations are AFFIRMED.

#### DECISION AND ORDER

The Administrative Law Judge, based upon findings of fact and conclusions of law, finds that the Department’s FAP and SDA overissuance determinations are AFFIRMED.

Accordingly, it is ORDERED:

1. The Department's determination of a \$596.00 FAP overissuance is AFFIRMED.
2. The Claimant shall be required to reimburse the Department the FAP benefits ineligibly received, due to Agency error, in the amount of \$596.00 for the period from September 2009 through March 2010 in accordance with department policy.
3. The Department's determination of a \$1,614.00 SDA overissuance is AFFIRMED.
4. The Claimant shall be required to reimburse the Department the SDA benefits ineligibly received, due to Agency error, in the amount of \$1,614.00 for the period from September 2009 through March 2010 in accordance with department policy.

*Colleen M. Mamelka*

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Colleen M. Mamelka  
Administrative Law Judge  
for Ismael Ahmed, Director  
Department of Human Services

Date Signed: 6/29/2010

Date Mailed: 6/29/2010

**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 mailing 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.

2010-34645 & 2010-34649/CMM

CMM/jlg

cc:

