

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No: 2010 35119
Issue No: 3019-3020
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
October 25, 2010
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Jonathan W. Owens

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 hearing was held on October 25, 2010. Claimant appeared and testified.

ISSUE

Did the Department properly deny Food Assistance Program benefits? Did the Department properly determine the Claimant received an over-issuance of FAP benefits and therefore subject to debt establishment?

FINDINGS OF FACT

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

1. On March 19, 2010, the Department notified the Claimant he had excess income for FAP benefits.
2. On May 1, 2010, a Notice of Intent to Refer Past Due Debt letter was sent to the Claimant.
3. On May 15, 2010, the Claimant requested a hearing.

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) administers the FAP program pursuant to MCL 400.10, et seq., and MAC R 400.3001-3015. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).


In the present case, Claimant requested a hearing regarding his FAP denial and the Department's notice regarding an over-issuance. The Claimant, at hearing, agreed with the amount of income being allocated to him during the timeframe in question. The Claimant, at hearing, indicated he understood why he was denied FAP benefits and he was only contesting the Department's attempt to recoup FAP benefits from him. He stated he had not received FAP benefits and was unclear as to how he was over-issued benefits. The letter sent to the Claimant from BRIDGES, a DHS 4354, indicates the Department has the intent to have him sign a repay agreement. No mention of the timeframe the over-issuance was to have occurred or the amount of the over-issuance. The Department representative offered no testimony to support an over-issuance even occurred or what amount the over-issuance is alleged to be.

The Department has failed to demonstrate the Claimant received an over-issuance in FAP benefits. The Claimant is not contesting the Department's determination regarding his FAP eligibility.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, determines the following:

1. The Claimant was properly denied FAP benefits on March 19, 2010, and therefore, this decision is hereby AFFIRMED.
2. The Department's attempt to establish an over-issuance in FAP benefits on May 1, 2010 is DENIED.


Jonathan W. Owens
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 11/03/10

Date Mailed: 11/03/10

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.

JWO/dj

cc:

