

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2010-42120
Issue No.: 3052
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: September 9, 2010
Wayne County DHS (17)

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 Detroit, Michigan on Thursday, September 9, 2010. The Claimant appeared, along with [REDACTED], and testified. [REDACTED] appeared on behalf of the Department.

ISSUE

Whether the Department is entitled to recoup a \$4,858.00 Food Assistance benefit ("FAP") over-issuance for the period from August 2008 through March 2009 due to Department error?

FINDINGS OF FACT

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

1. The Claimant submitted an application for public assistance seeking FAP benefits on July 17, 2008.
2. The Claimant provided her U.S Passport to establish her citizenship. (Exhibit 6)
3. The Claimant's spouse provided his permanent resident card. (Exhibit 5)
4. At the time of application, the Claimant's five children were Canadian citizens. (Exhibits 7 – 12)

5. In calculating the FAP budget, the Department incorrectly used a group size of 7 as opposed to 2. (Exhibit 2)
6. As a result of the incorrect group size, the Claimant received a \$4,858 FAP over-issuance for the period from August 2008 through March 2009. (Exhibits 3, 19 – 26)
7. The Claimant provided U.S. Passports for her five children with the issuance date of March 12, 2009. (Exhibits 13 – 17)
8. On March 12, 2009, the Department notified the Claimant of the FAP over-issuance. (Exhibits 27 – 30)
9. The Department received the Claimant's written request for hearing protesting the FAP over-issuance.

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").

In this case, the Department seeks recoupment of an over-issuance of FAP benefits based on the Department inclusion of the Claimant's five non-citizen children in the group. An ("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 over-issuance 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 calculated the Claimant's FAP allotment based on a group size of 7. At that time (July 2008), the Claimant's five children were Canadian citizens. In order to receive FAP benefits, an individual must be a U.S. citizen or have an acceptable alien status. The inclusion of the five children was due to agency error. Ultimately, the Department established that for the period from August 2008 through

March 2009 (the month the Claimant's children were issued a U.S. passport), the Claimant received a \$4,858.00 FAP over-issuance which the Department is entitled to recoup. Accordingly, the Department's determination is AFFIRMED.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law finds the Department's actions are upheld.

Accordingly, it is ORDERED:

The Department's determination of a \$4,858.00 FAP over-issuance for the period from August 2008 through March 2009 is AFFIRMED.

Colleen M. Mamelka

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

Date Signed: 9/14/2010

Date Mailed: 9/14/2010

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.

CMM/jlg

cc:

[REDACTED]