

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.: 201042469
Issue No.: 3020; 3052
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: August 5, 2010
Macomb County DHS

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

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 held on August 5, 2010. The Claimant appeared and testified. [REDACTED], ES appeared on behalf of the Department.

ISSUE

Was the Department correct in determining an overissuance of Claimant's FAP benefits and for seeking recoupment?

FINDINGS OF FACT

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

- (1) Claimant was an ongoing recipient of FAP benefits.
- (2) On December 19, 2009 the Department determined that an overissuance had occurred due to Department error. Social Security income that should have been included was not.
- (3) Claimant received overissuances in the amount of \$764 under the FAP program.
- (4) Claimant requested a hearing on March 25, 2010 contesting the overissuance determination and recoupment of benefits.

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"), formally 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 Program Reference Manual ("PRM").

When a client group receives more benefits than they are entitled to receive, DHS must attempt to recoup the over issuance (OI) if the overissuance is greater than \$125. BPB 2010-005. The amount of the OI is the amount of benefits the group or provider actually received minus the amount the group was eligible to receive. BAM 720, p. 6.

In the present case, between October 1, 2009 and January 31, 2010 Claimant received \$764 in FAP benefits that he was not entitled to receive. Claimant received an overissuance of \$764. Claimant questioned the fairness of recouping an overpayment that resulted from agency error. Department policy is very clear that overissuances that resulted from agency error are subject to recoupment. BAM 705.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that Claimant received overissuances in FAP program benefits of \$764 due to agency error, and it is ORDERED that the Department's decision in this regard be and is hereby AFFIRMED.

/s/



Aaron McClintic
Administrative Law Judge
For Ismael Ahmed, Director
Department of Human Services

Date Signed: August 11, 2010

Date Mailed: August 11, 2010

201042469/AM

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.

AM/hw

cc:

