

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: 201043568

Issue No: 3052; 1031

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

September 20, 2010

Macomb County DHS

ADMINISTRATIVE LAW JUDGE: Robert J. Chavez

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 September 20, 2010.

ISSUE

Was the claimant properly determined to have an over-issuance in the FAP program of \$1938 and the FIP program of \$2052?

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 a FAP and FIP recipient in Macomb County.
- (2) In June 2009, claimant's husband began receiving UCB benefits.
- (3) Claimant reported the amount to the Department.
- (4) Claimant also began receiving RSDI and SSI benefits in September and October 2009.

- (5) These amounts were not budgeted until December 2009.
- (6) DHS discovered this error in December 2009.
- (7) The Department admitted that this was an agency error, and would recoup \$1938 in FAP benefits and \$2052 in FIP benefits.
- (8) Claimant was notified of the pending recoupment on April 3, 2010.
- (9) On April 13, 2010, claimant requested a hearing, alleging that she should not have to pay the money back because she had fulfilled her obligations to the Department.
- (10) On September 20, 2010, a hearing was held before the Administrative Law Judge.
- (11) While the Department submitted evidence showing claimant's unearned household income and benefits that were issued during the time period in question, the Department, despite prompting, failed to submit into evidence any budgets showing how the amount of FAP benefits claimant initially received was calculated.
- (12) The Department also failed to submit corrected budgets showing the amount of FAP benefits claimant should have received during this period, to prove that there was an error.
- (13) The Department also failed to submit any FIP budgets, despite prompting.

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 or Department) administers the FAP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3001-3015. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 8 USC 601, *et seq.* The Department of Human Services (DHS or Department) administers the FIP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3101-3131. The FIP program replaced the Aid to Dependent Children (ADC) program effective October 1, 1996. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

Clients must report changes in circumstance that potentially affect eligibility or benefit amount. BAM 105.

A client/CDC provider error overissuance (OI) occurs when the client received more benefits than they were entitled to because the client/CDC provider gave incorrect or incomplete information to the department. BAM 715. This includes failing to report a change. An agency error OI is caused by incorrect actions (including delayed or no action) by DHS or Department processes. BAM 705. When a client group receives more benefits than they are entitled to receive, DHS must attempt to recoup the overissuance. BAM 700.

Agency error OI's are not pursued if the estimated OI amount is less than \$125 per program. BAM 700.

In the current case, the Department contends that while the claimant had reported unearned income as required by policy, this income was incorrectly budgeted by the Department, and claimant was issued more FAP and FIP benefits than she was legitimately entitled to; these benefits need to be recouped. Claimant contends that she reported her income, and should not have to pay back the over-issuance because of a caseworker mistake.

Unfortunately, even if the claimant did report, and the Department made a mistake, this would not normally change the recoupment prospects. BAM 700 states that the Department must pursue any OI that was the result of agency error if the amount is above \$500. Claimant's OI is allegedly above that amount. Therefore, the OI must be recouped, regardless of whose fault the error was, if the Department can satisfactorily prove the recoupment amount to the Administrative Law Judge.

However, in the current case, the Department has not proven that amount.

During the hearing, the Administrative Law Judge asked the Department three separate times if the Department wished to submit budgets showing how the claimant's FAP was initially calculated, as well as corrected budgets showing how the claimant's FAP should have been calculated. Three times, the Department declined to submit the budgets. When asked if they wished to rest their case, the Department answered in the affirmative. Prior to the start of testimony, the Department was warned that they would be required to submit evidence to prove each element of their case.

These budgets are critical pieces of evidence that could show how the claimant's benefits were initially calculated. The corrected budgets could show how the claimant's

benefits should have been calculated and the correct amount of benefits claimant should have received.

However, no such evidence was entered into the record, and the budget the undersigned was shown at the hearing was stated by the Department to be inaccurate. Thus, the undersigned must hold the Department has failed to prove the foundation of their case—calculations that showed that the claimant was only eligible for a lower amount of FAP and FIP than what she actually received. Without these calculations, the undersigned cannot hold that the claimant was over-issued FAP or FIP benefits. The undersigned will not accept blanket testimony stating that the claimant was only eligible for a certain amount of FAP benefits; these amounts must be proven, preferably by the budgets which show how these amounts were calculated.

Therefore, as there is no evidence showing that the claimant was over-issued benefits, the undersigned must hold that the claimant was not over-issued benefits, and therefore, recoupment must be denied.

Therefore, for the above stated reasons, recoupment must be denied.

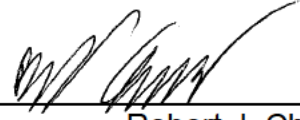
DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department has not satisfactorily shown that the claimant was the recipient of an over-issuance of FAP benefits in the amount of \$1938 and FIP benefits in the amount of \$2052. Therefore, the Department's decision to initiate recoupment of claimant's alleged FAP and FIP over-issuance was incorrect.

Accordingly, the Department's decision in the above stated matter is, hereby, REVERSED.

Recoupment of FAP and FIP benefits is DENIED.

The Department is ORDERED to supplement to the claimant any FAP and FIP benefits already recouped as a result of the above stated matter.



Robert J. Chavez
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 09/28/10

Date Mailed: 09/28/10

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 90 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.

RJC/dj

cc:

