

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

IN THE MATTER OF:



Reg. No: 201044164  
Issue No: 3020  
Case No: [REDACTED]  
Load No: [REDACTED]  
Hearing Date:  
August 16, 2010  
Kent County DHS

**ADMINISTRATIVE LAW JUDGE:** Kevin Scully for Lauren Harkness

**HEARING DECISION**

This matter is before the undersigned Administrative Law Judge by authority of MCL 400.9 and MCL 400.37. Claimant's request for a hearing was received on April 22, 2010. After due notice, a telephone hearing was held on Monday, August 16, 2010.

**ISSUE**

Whether the Department of Human Services (Department) properly determined that the Claimant received an overissuance of Food Assistance Program (FAP) benefits?

**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 applied for FAP benefits on April 28, 2009. Department Exhibit 16.
2. The Claimant reported to the Department on her application for benefits that her husband was receiving unemployment compensation benefits. Department Exhibit 12.
3. Due to Department error, the Department did not consider unemployment compensation benefits of the Claimant's husband when the Department approved the Claimant for FAP benefits with a monthly allotment of [REDACTED] for May of 2009. Department Exhibit 29.

4. On April 14, 2010, the Department sent notice to the Claimant that she had received a [REDACTED] overissuance of FAP benefits for May of 2009. Department Exhibit 26.
5. The Department received the Claimant's request for a hearing on April 22, 2010, protesting the Department's recoupment of overissued FAP benefits.

### **CONCLUSIONS OF LAW**

The Food Assistance Program (FAP) (formerly known as the Food Stamp 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), Reference Table Manual (RFT), and the Bridges Reference Manual (BRM).

An overissuance is the amount of benefits issued to the client group in excess of what they were eligible to receive. BAM 705. The amount of the overissuance is the amount of benefits the group actually received minus the amount the group was eligible to receive. BAM 720. When a client group receives more benefits than they are entitled to receive, the Department must attempt to recoup the overissuance. BAM 700.

Department errors are caused by incorrect actions by the Department. BAM 705. Department error overissuances are not pursued if the estimated overissuance is less than \$125 per program. BAM 700. Client errors occur when the customer gave incorrect or incomplete information to the Department. Client errors are not established if the overissuance is less than \$125 unless the client group is active for the overissuance program, or the overissuance is a result of a quality control audit finding. BAM 700.

The Claimant applied for FAP benefits on April 28, 2009, and reported on her application that her husband was receiving unemployment compensation benefits. The Department approved the Claimant's FAP application with a monthly FAP allotment of [REDACTED] for May of 2009. Due to Department error, unemployment benefits were not considered when determining the Claimant's FAP allotment. If unemployment benefits had been entered in to the Claimant's FAP budget, she would have been eligible to receive a FAP allotment of [REDACTED] for May of 2009. Therefore, the Claimant received a FAP overissuance of [REDACTED]

The Claimant does not dispute the fact that her husband received unemployment compensation benefits. The Claimant argued that she fulfilled her duty to report this unearned income to the Department, and that she had no way of knowing that she had received more benefits than she was eligible to receive. The Claimant argued that requiring her to repay the FAP overissuance would further aggravate her worsening financial situation at no fault of her own.

However, the claimant's grievance centers on dissatisfaction with the department's current policy. The claimant's request is not within the scope of authority delegated to this Administrative Law Judge. Administrative Law Judges have no authority to make decisions on constitutional grounds, overrule statutes, overrule promulgated regulations, or make exceptions to the department policy set out in the program manuals. Furthermore, administrative adjudication is an exercise of executive power rather than judicial power, and restricts the granting of equitable remedies. Michigan Mutual Liability Co. v Baker, 295 Mich 237; 294 NW 168 (1940).

The Department has established that it acted in accordance with policy when it determined that the Claimant received an overissuance of FAP benefits due to Department error.

**DECISION AND ORDER**

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department has established that it acted in accordance with policy when it determined that the Claimant received an overissuance of FAP benefits due to Department error.

The Department's recoupment of a FAP overissuance of [REDACTED] is AFFIRMED. It is SO ORDERED.

/s/ \_\_\_\_\_  
Kevin Scully  
Administrative Law Judge  
for Ismael Ahmed, Director  
Department of Human Services

Date Signed: September 23, 2010

Date Mailed: September 24, 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.

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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.

KS/vc

cc:

