

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

IN THE MATTER OF:



Reg. No.: 201045404
Issue No.: 3020; 3052
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: August 26, 2010
Oakland 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 26, 2010. The Claimant appeared at the hearing and testified. [REDACTED], AP Supervisor and [REDACTED], ES appeared on behalf of the Department.

ISSUE

Was the Department correct in attributing Claimant's wife's prior overissuance to the household?

FINDINGS OF FACT

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

- (1) On March 31, 2010 final notice of overissuance was sent to Claimant alleging \$1271 balance due.
- (2) The overissuances were received by Claimant's wife and household member, [REDACTED], in 2001 and 2002.
- (3) Claimant presented no evidence or argument disputing the prior overissuances.
- (4) Claimant requested a hearing on April 30, 2010 contesting the overissuance.

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 due to client error, DHS must attempt to recoup the over issuance (OI) if the overissuance is greater than \$125. BAM 720. 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. Department policy dictates who is responsible for overissuances--
PAYMENT RESPONSIBILITY All Programs Repayment of an OI is the responsibility of:
• Anyone who was an eligible, disqualified, or other adult in the program group at the time the OI occurred. • A FAP authorized representative if they had any part in creating the FAP OI. Bridges will collect from all adults who were a member of the case. Administrative Recoupment may be deducted on more than one case for a single OI. BAM 725.

In the present case, Claimant's wife received overissuances in 2001 and 2002. No evidence was presented to dispute those overissuances. Also, any attempt to dispute those overissuances would be untimely. BAM 115. Claimant questioned whether it was fair to attribute his wife's overissuances to the case in his name when the overissuance occurred prior to their marriage. Department policy is clear that recoupment for overissuances for one household member are allowable for the entire household, even where one member of the household was not responsible and did not benefit from the prior overissuance. BAM 725. Therefore the Department's determination is proper and correct.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that Claimant's wife and household member Wendy McClendon received overissuances that were properly recouped from the Claimant's household, and it is

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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 30, 2010

Date Mailed: August 30, 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 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.

AM/hw

cc:

