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

IN THE MATTER OF:



Reg. No:	2010-47885
Issue No:	3052
Case No:	
Load No:	
Hearing Date:	
September 9, 2010	
Kent County DHS	

ADMINISTRATIVE LAW JUDGE: Gary F. Heisler

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 9, 2010. Claimant appeared and testified.

<u>ISSUE</u>

Did the Department of Human Services over-issue Claimant **Security** of Food Assistance Program (FAP) benefits between April 1, 2009 and January 31, 2010, which the Department is entitled to recoup?

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 April 22, 2009 Claimant submitted an application for Food Assistance Program (FAP) benefits. Claimant reported Unemployment Compensation Benefits (UCB) for both her self and her husband, The application also stated that the pays for per month in child support. When the Department determined the group's eligibility for Food Assistance Program (FAP) benefits, UCB was not included. The Department began paying Claimant for Food Assistance Program (FAP) benefits.
- (2) On June 29, 2009 found employment again.
- (3) On September 2, 2009 the Department received information on employment.

- (4) On January 13, 2010 the Department discovered the budgeting error for UCB and referred the case to recoupment.
- (5) On June 2, 2010 Claimant was sent a notice of over-issuance.
- (6) On June 14, 2010 Claimant submitted a request for hearing.

CONCLUSIONS OF LAW

The Food Assistanc e Program (FAP) (formerly known as the Food Stamp (FS) program) is establis hed by the Food St amp Act of 1977, as amended, and is implemented by the federal r egulations 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 Program Reference Manual (PRM).

In this cas e Claimant does not dispute that she was overpaid some amount of Food Assistance Program (FAP) benefits. During the hearing the income amounts used for both Claimant and were examined and Claimant stated the amounts were was dete rmined that Claimant had reported accurate. During the hearing it income in September 2009 and t he Recoupment Specialist stipulated that the budget s for October through December 2009 needed to be rerun with income as reported earned inc ome instead of unreported earned inco me. That distinction is important because 20% of reported earned income is removed from net income but ALL unreported earned income is included in net income. The recalculated monthly budgets and summary amounts were submitted after the hearing.

The close scrutiny of budgets perf ormed in deciding this case rev ealed other errors in the monthly over-issuance budgets. Specifically, the evidence in the record shows that had earned income every month between July and December 2009. The monthly over-issuance budget for July and August of 2009 do not include earned income. Additionally the monthly over-issuance bud get for May through August 2009 indic ate Claimant's group was eligible for benefits but do not incl ude any child s upport amount paid by as reported in the application. While it is possible that no payments were made those months, there is no evidence in the record to show c hild support payments should not be included in the group's financial eligibility budget.

While it appears that an over-issuance did occur, the specific amount cannot be determined from the evidence in this record. Therefore, the Department's action cannot be upheld.

DECISION AND ORDER

The Administrative Law Judge, based upon t he above findings of fact and conclusion s of law, decides the Depar tment of Human Services DID NOT over-issue Claimant

\$ of Food Assistance Program (FAP) benefits between Ap ril 1, 2009 and January 31, 2010, which the Department is entitled to recoup.

It is ORDERED that the actions of the Department of Human Services, in this matter, are REVERSED. T his reversal does not preclude the Department from reexamining the case and pursuing any correctly calculated over-issuance.

/s/

Gary F. Heisler Administrative Law Judge for Ismael Ahmed, Director Department of Human Services

Date Signed: <u>September 15, 2010</u>

Date Mailed: <u>September 16, 2010</u>

NOTICE: Administrative Hearings may or der a rehearing or reconsideration on either its own motion or at t he request of a party within 30 days of the mailing date of this Decision and Order. Administrative Hear ings will not order a rehearing or reconsideration on the Department's mo tion where the final decis ion 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 ti mely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

GFH/alc

CC:

