

STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg No: 2010 48231
Issue No: 3052
Case No: [REDACTED]
Hearing Date:
May 26, 2011
Wayne County DHS (76)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 conducted from Detroit, Michigan on May 26, 2011. The Claimant appeared and testified. [REDACTED] the Claimant's authorized hearing representative also appeared and testified as a witness. Kinosha Collins, ES and Vanessa Mc Coy, FIM appeared on behalf of the Department.

ISSUE

Whether the Department is entitled to a recoupment of the Claimant's FAP benefits in the amount of \$444 for a FAP over-issuance and recoupment for the period January 2010 through June 1, 2010, due to agency error.

FINDINGS OF FACT

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

1. The Claimant was an active Food Assistance Program benefits (FAP) recipient and, during the period January 1, 2010 through June 1, 2010, the Claimant received \$200 per month.

2. The Department seeks a recoupment due to an overissuance of both FAP benefits in the amount of \$444(FAP). Claimant Exhibit 1.
3. On June 4, 2010, the Claimant timely requested a hearing protesting the proposed overissuance of FAP.

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 Reference Table ("RFT").

In this case, the Department seeks debt establishment for an over-issuance of Food Assistance benefits (FAP) due to the Claimant receiving benefits, which were more than she was entitled to receive due to an agency error. Claimant Exhibit 1. The evidence presented by the Department did not establish that an overissuance occurred and did not establish the Department's right to recoupment.

An over-issuance ("OI") occurs when a client group receives more benefits than they are entitled to receive. BAM 700, p. 1. A claim is the resulting debt created by the over issuance of benefits (OI). Id. Recoupment is an action to identify and recover a benefit. Id. The Department must take reasonable steps to promptly correct any overpayment of public assistance benefits, whether due to department or client error. BAMs 700, 705, 715, and 725. An agency error OI is caused by incorrect actions by

DHS, DIT staff, or department processes. BAM 705, p. 1. In general, agency error Ols are not pursued if Ol amount is under \$125.00 per program. BAM 705, pp. 1-3. In this case the amount of over issuance exceeds \$125 dollars so the department is entitled to pursue the FAP over issuance involved in this matter.

In the subject case, the Department did not establish that the Claimant owed any debt and did not present any proofs. The Claimant received FAP benefits but the Department did not provide a basis to establish that the benefits the Claimant received were over issued. The Department was not aware that the hearing was to be regarding the overissuance and did not check its computer system to determine the subject matter of the hearing to determine what agency action was near in time to the Claimant's hearing request. The Department took the position at the hearing that there was no issue raised by the hearing request.

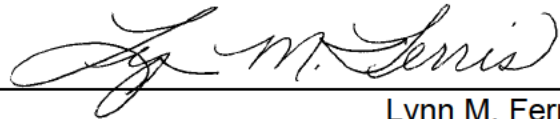
The undersigned has reviewed the file and, due to the lack of proofs presented by the Department at the hearing, it was not established that there was an over-issuance of FAP benefits to the Claimant and, therefore, its request for recoupment is denied. Accordingly, the Department's action for recoupment of the Claimant's FAP benefits is not established by the evidence presented, and the Department is not entitled to recoupment of the Claimant's FAP benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department did not establish its right to recoupment of the Claimant's FAP benefits in the amount of \$444 for the period of January 1, 2010 through June 1, 2010.

Accordingly, it is ORDERED:

1. The Department is not entitled to recoup the Claimant's FAP benefits for the period beginning January 1, 2010 through June 1, 2010.
2. The Department is not entitled to initiate collection procedures in accordance with Department policies.



Lynn M. Ferris
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 06/22/11

Date Mailed: 06/24/11

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.

LMF/dj

cc:

