

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: 201050388
Issue No: 3020
Case No: [REDACTED]
Hearing Date: February 8, 2011
Isabella County DHS

ADMINISTRATIVE LAW JUDGE: Janice G. Spodarek

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, an in-person hearing was held on February 8, 2011.

ISSUE

Did the DHS present credible and substantial evidence that claimant was overissued FAP benefits due to agency error?

FINDINGS OF FACT

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

1. At all relevant times, applicable to the issues herein, claimant was a FAP recipient.
2. On May 20, 2010, the department indicates on its hearing summary that it notified claimant that she was overissued [REDACTED] in food stamp benefits due to the department's failure to budget reported unemployment income.
3. The department subsequently reviewed the case and determined that the overissuance was incorrect and reduced the amount to [REDACTED].
4. The department issued claimant an overissuance summary which was not correct. The department failed to include the summary in the evidentiary packet.
5. The department failed to prepare a complete evidentiary packet for claimant—February budget was missing.

6. To date, claimant has not received an adequate notice of overissuance and/or recoupment. The hearing summary indicates that a recoupment action is pending.
7. Claimant's summary of overissuances was inconsistent with the information on the hearing summary.
8. The hearing summary indicates that a notice was issued on May 20, 2010 and claimant filed a timely hearing request on May 28, 2010. The hearing notice indicates that the action was reinstated pending the outcome of the hearing.
9. No notice exists with an adequate explanation containing the recoupment amount or explanation.

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 Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

Numerous policy items come in to play in this case. Income policy as well as budgeting, overissuance, and recoupment. These policies are found in part in BEM Items 500, 501, 503, 505. The administrative manual items are found primarily in BAM Items 600, 700, and 705.

Other general authority applicable to this case has to do with the department's burden of proof in presenting a sufficient case to establish the action it took and the authority for the action. Specifically, the department has the burden of proof to establish with credible and substantial evidence sufficiently clear to substantiate and corroborate the action it purports to take. See BAM Item 600, MAPA, MCL 400.9; 400.37; 24.271-24,287; 400 Rule MAC R 400.901-400.922; 7 CFR.

In this case, the department's evidence was not clearly established at the administrative hearing. Specifically, the hearing summary changes the purported amounts of overissuance. However, there has been no notice issued with the correct overissuance amount. In addition, claimant's hearing packet was not complete, nor was the Administrative Law Judge's. Specifically, claimant's hearing packet did not contain a February budget; the Administrative Law Judge's hearing packet did not contain the hearing summary of the overissuances. Moreover, the hearing summary overissuances were incorrect as it contained an incorrect amount. The budgets in the administrative packet contained handwritten notes and contained amounts that varied for the same

month. See also notice requirements found at 7 CFR and in the BAM manual BAM Items 105, 110, and 115. Due to the failure of the department to issue adequate notice, and the failure of the department to have a complete and thorough evidentiary packet available for claimant's preparation for the administrative hearing, claimant was not given the opportunity to prepare and the evidence on the record did not burden of proof standards. For these reasons, this Administrative Law Judge finds that the department failed to meet its burden of proof with credible and substantial evidence on the whole record, and thus, the department's proposed actions are reversed.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department's proposed actions were incorrect.

Accordingly, the department's proposed actions are, hereby, REVERSED.

The department is Ordered to delete the overissuance and/or recoupment (if any) from the BRIDGES system for the time period from November 2009 through March 2010.

/s/

Janice G. Spodarek
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: February 15, 2011

Date Mailed: February 15, 2011

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.

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JGS/db

cc:

