

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: 2010-50899  
Issue No: 3020  
Case No: [REDACTED]  
Load No: [REDACTED]  
Hearing Date:  
October 27, 2010  
Ingham County DHS

**ADMINISTRATIVE LAW JUDGE:** Kevin Scully

**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 June 23, 2010. After due notice, a telephone hearing was held on Wednesday, October 27, 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 was an ongoing FAP recipient from August 1, 2009, through May 31, 2010.
2. Due to Department error, the Department did not include the Claimant's income in its FAP eligibility determination from August 1, 2009, through May 31, 2010.
3. The Claimant received a monthly FAP allotment of \$200 from August 1, 2009, through May 31, 2010.
4. On June 12, 2010, the Department sent the Claimant notice that he had received an overissuance of \$ [REDACTED]

5. The Department received the Claimant's request for a hearing on June 23, 2010, protesting the 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).

Clients must report changes in circumstance that potentially affect eligibility or benefit amount within 10 days of receiving the first payment reflecting the change. BAM 105. Income reporting requirements are limited to the following:

#### Earned income:

- Starting or stopping employment.
- Changing employers.
- Change in rate of pay.
- Change in work hours of more than five hours per week that is expected to continue for more than one month.

#### Unearned income:

- Starting or stopping a source of unearned income.
- Change in gross monthly income of more than \$50 since the last reported change.

#### Other changes:

- Persons in the home.
- Marital status.
- Address and shelter cost changes that result from the move.
- Vehicles.
- Assets.

- Child support expenses paid.
- Health or hospital coverage and premiums.
- Day care needs or providers. BAM 105

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 \$ [REDACTED] 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 \$ [REDACTED] 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 Department was an ongoing FAP recipient from August 1, 2009, through May 31, 2010. Due to Department error, the Department did not include the Claimant's income in its FAP eligibility determination during this period. The Claimant received a monthly FAP allotment of \$ [REDACTED] for each of the ten months during this period. On June 12, 2010, the Department sent the Claimant notice that he had received an overissuance of \$ [REDACTED]

The Department submitted evidence of the Claimant's income during this three overissuance period and has established that the Claimant was not entitled to receive a \$ [REDACTED] FAP allotment.

However, the Department failed to establish that it included the Claimant's housing and utility expenses in its revised eligibility determination during this same period. The Department has failed to establish that the Claimant was not eligible for FAP benefits due to excess income during the overissuance period.

### **DECISION AND ORDER**

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department has failed to establish the amount of a FAP overissuance received by the Claimant.

Accordingly, the Department's recoupment of FAP benefits is REVERSED. It is further ORDERED that the Department shall:

1. Initiate a determination of the Claimant's eligibility for FAP benefits from August 1, 2009, through May 31, 2010.
2. If the Department determines that the Claimant received an overissuance of FAP benefits, it will provide the Claimant with written notification of the its revised determination.

\_\_\_\_/s/

Kevin

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Scully  
Administrative Law Judge  
for Duane Berger, Director  
Department of Human Services

Date Signed: January 12, 2011

Date Mailed: January 12, 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.

KS/alc

cc:

[REDACTED]