

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.: 2010-55688
Issue No.: 3052
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: December 1, 2010
Wayne County DHS (41)

ADMINISTRATIVE LAW JUDGE: Colleen M. Mamelka

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 hearing was held in Detroit, Michigan on Wednesday, December 1, 2010. The Claimant appeared, along with [REDACTED], and testified. [REDACTED], [REDACTED], and [REDACTED] appeared on behalf of the Department.

ISSUE

Whether the Department established a FAP over-issuance, which it is entitled to recoup, for the months of February and March 2010?

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 is a FAP recipient.
2. On February 18, 2010, the Claimant's five children were removed from the home. (Exhibit 3)
3. The Claimant notified the Department of the removal.
4. The Claimant received a \$611.00 FAP allotment plus a \$33.00 supplement for the months of February and March 2010. (Exhibit 1)
5. On March 24, 2010, the Department sent a Notice of Over-issuance to the Claimant informing her that due to Agency error, the Claimant received

and over-issuance for the months of February and March 2010 in the amount of \$1,256.00. (Exhibit 2)

6. On May 20, 2010, the Department received the Claimant's timely written request for hearing protesting the recoupment for the month of February 2010. (Exhibit 4)

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"), formerly 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 Bridges Reference Manual ("BRM").

The Department must act on a change reported by means other than a tape match within 10 days of being aware of the change. BAM 220 For non-income changes, a FAP eligibility determination and required case action are completed in time to affect the benefit month that occurs 10 days after the change is reported. BAM 220

An over-issuance ("OI") occurs when a client group receives more benefits than they are entitled to receive. BAM 700 A claim is the resulting debt created by the over-issuance of benefits. BAM 700 Recoupment is an action to identify and recover a benefit OI. BAM 700 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 In general, agency error OIs are not pursued if the OI amount is under \$125.00 per program. BAM 705

In this case, the Department seeks recoupment of an over-issuance of FAP benefits for the months of [REDACTED] and [REDACTED]. On [REDACTED] (the [REDACTED] day from the end of the month), the Claimant's five children were removed from the home. There were 10 days remaining in the month of [REDACTED] when the change was reported therefore the reduction in benefits should have occurred in [REDACTED], not [REDACTED]. As such, the Claimant received an over-issuance of benefits for the month of [REDACTED]. The Department seeks recoupment for both [REDACTED] and [REDACTED] however, per policy, the Department is entitled to recoup for only the month of [REDACTED]. Accordingly, the Department's determination is AFFIRMED in part/REVERSED in part.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law AFFIRMS in part/REVERSES in part the Department's determination of over-issuance.

Accordingly, it is ORDERED:

1. The Department's determination of a FAP over-issuance for the month of February 2010 is REVERSED.
2. The Department's determination of a FAP over-issuance for the month of March 2010 is AFFIRMED.
3. The Claimant shall be required to reimburse the Department the FAP benefits ineligibly received for the month of March 2010 in accordance with department policy.

Colleen M. Mamelka

Colleen M. Mamelka
Administrative Law Judge
For Ismael Ahmed, Director
Department of Human Services

Date Signed: 12/6/2010

Date Mailed: 12/6/2010

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 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 of the rehearing decision.

CMM/jlg

2010-55688/CMM

cc:

[REDACTED] 1843
[REDACTED]
[REDACTED]