STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF: [redacted]

Claimant

Reg No: 20109685
Issue No: 3020
Case No: [redacted]
Load No: [redacted]
Hearing Date:
January 28, 2010
Macomb County DHS (20)

ADMINISTRATIVE LAW JUDGE: Jeanne M. VanderHeide

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 January 28, 2010. The Claimant appeared and testified at the hearing along with a friend, [redacted]. Scherry Riley, ES, appeared on behalf of the Department.

ISSUE

Whether the Department is entitled to reduce Claimant's FAP benefits in order to recoup for a $388.00 FAP over-issuance for the period from 8/1/09 through 11/30/09 due to the Department's failure to properly include Claimant's updated group earned income.

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 FAP recipient.
2. On 9/2/09, the Department forwarded a verification checklist to Claimant with a due date of 9/14/09. (Exhibit 1, p. 2-3)
3. Claimant testified that she provided the requested verifications.
4. The Department failed to include the updated household earned income in the FAP budget.
5. Claimant applied for SER benefits on 10/26/09 and resubmitted the household wage verification.
6. As a result of the Agency error, the Department indicated that Claimant received a FAP over-issuance for the period August 1, 2009 – November 30, 2009 totalling $388.00. (Exhibit 1, p. 25)
7. On November 17, 2009, the Department received the Claimant's written request for a hearing protesting the proposed recoupment action.

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 recoupment of an over-issuance of FAP benefits due to the Department's failure to include Claimant's updated group earned income in the FAP budget.

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 overissuance 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 OIs are not pursued if OI amount is under $500.00 per program. BAM 705, pp. 1-3.

In the subject case, the Department paid FAP benefits without current income based on the Department's failure to include the updated earned income in the budget. The undersigned has reviewed the FAP budget and found that there was an over-issuance that is currently being recouped from Claimant's FAP benefits. However, that over-issuance is less than $500.00 which is the policy amount that was in effect at the time of the over-issuance. Accordingly, the Department's OI and recoupment action is REVERSED.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department properly calculated the Claimant's FAP benefits to be overpaid for the period 8/1/09 – 11/30/09. However, the policy in effect at the time of the overissuance does not allow for recoupment unless the total overissuance is over $500.00.

It is, therefore, ORDERED that the OI and recoupment is REVERSED.

It is further Ordered that the Department shall supplement the Claimant for any monies that were already recouped due to the 8/1/09 – 11/30/09 overissuance.

Jeanne M. VanderHeide
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: March 2, 2010

Date Mailed: March 4, 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 date of the rehearing decision.

JV/hw

cc: [redacted]