

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: 20109965  
Issue No: 3052; 3002; 3003  
Case No: [REDACTED]  
Load No: [REDACTED]  
Hearing Date:  
January 13, 2010  
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Robert J. Chavez

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, a hearing was held on January 13, 2010.

ISSUE

Was the claimant properly determined to have an overissuance in the FAP program of \$134? Was claimant's FAP budget correctly determined?

FINDINGS OF FACT

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

- (1) On October 4, 2009, the Department received notification that claimant's UCB benefits went up in September from \$724 bi-weekly to \$774 bi-weekly.
- (2) Claimant submitted all required verifications on October 21, 2009.
- (3) The Department ran a budget on claimant's FAP allocation on October 22, 2009.

- (4) This budget showed that claimant's FAP allocation decreased by \$29 from \$233 in the month of September to \$204 in the month of October onward.
- (5) This triggered an overissuance notice on claimant's case, stating that he had been overissued FAP benefits for the months of October 2009 and November 2009, despite the fact that claimant had not yet been paid benefits for November 2009.
- (6) This overissuance notice determined that claimant's FAP overissuance was in the amount of \$134.
- (7) Claimant had been paid \$236 in FAP benefits for the months of October and November, 2009.
- (8) At the time the overissuance was issued, claimant had, at most, been overpaid by \$32.
- (9) Bridges proceeded to automatically deduct \$20 per month from claimant's benefits to account for the alleged overissuance.
- (10) On November 5, 2009, claimant requested a hearing, denying the overissuance and requesting a review of his FAP benefits.

#### 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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

A client/CDC provider error overissuance (OI) occurs when the client received more benefits than they were entitled to because the client/CDC provider gave incorrect or incomplete information to the department. BAM 715. This includes failing to report a change. An agency error OI is caused by incorrect actions (including delayed or no action) by DHS or department processes. BAM 705. When a client group receives more benefits than they are entitled to receive, DHS must attempt to recoup the overissuance. BAM 700.

In October 2009, agency error OI's were not pursued if the estimated OI amount was less than \$500 per program. Client error OIs were not established if the OI amount was less than \$125, unless the client is active for the OI program or the OI is a result of a Quality Control (QC) audit finding. BAM 700.

The issue at hand is an easy one to resolve. Taking the Department's evidence as fact, claimant's overissuance would be \$134. The Department stated that this overissuance was because of agency error. The agency error overissuance threshold is \$500—therefore, this overissuance will not be pursued, per BAM 700.

However, the evidence at hand shows that the Department's overissuance calculations are severely flawed.

Claimant's overissuance notice, stating an overissuance had occurred, was issued on October 22, 2009. The overissuance months in question were October and November, 2009.

The undersigned would point out that this notice was issued before November's benefit allocation had even been issued—that is, the overissuance notice was for an overissuance that had not occurred. Nothing in policy can be read to allow this, and it is unclear as to exactly how it occurred. This may be an error in the new Bridges system, in which case, the Department should open up a problem ticket to get the error resolved.

Furthermore, even if the Administrative Law Judge allowed for a recoupment from a prospective overissuance, the undersigned is unsure as to how the \$134 amount was arrived at. Claimant's benefits for the month of September, which by all accounts was correct, were \$233. Claimant's benefit amount dropped to \$204 in December, which the undersigned acknowledges as a correct allotment. Claimant was actually issued \$236 in October and November. Therefore, claimant's overissuance amount for the month of October appears to have been, at most, \$32. If we allow the prospective overissuance, the overissuance becomes \$64. There is no explanation as to how a \$134 number was achieved, and the Department should check its software; there is clearly an error somewhere that is miscalculating overissuance amounts.

Finally, the Administrative Law Judge has reviewed the claimant's FAP budgets and determined that the Department was correct in deciding that claimant's FAP allotment was \$204. Claimant was unable to point out any errors in the Department's calculations, and the Administrative Law Judge was unable to find errors. Claimant verified all numbers used for his unearned income totals, himself.

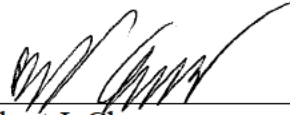
#### DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the claimant's FAP allocation in the amount of \$204 is correct. The recoupment amount of \$134 is incorrect. Any overissuance in the current case is a result of agency error, and is below the threshold for agency error recoupment.

Accordingly, the Department's decision in the above stated matter is, hereby,  
REVERSED.

Recoupment is DENIED.

The Department is ORDERED to supplement claimant any FAP benefits that were mistakenly recouped in the present case.



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Robert J. Chavez  
Administrative Law Judge  
for Ismael Ahmed, Director  
Department of Human Services

Date Signed: 03/11/10

Date Mailed: 03/11/10

**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.

RJC/dj

cc:

