

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

██████████
Claimant,

Reg No: 2010-10020
Issue No: 3020
Case No: ██████████
Load No: ██████████
Hearing Date:
January 12, 2010
Berrien County DHS

ADMINISTRATIVE LAW JUDGE: Steven M. Brown

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 telephone hearing was conducted from ██████████ on January 12, 2010.

ISSUE

Whether the Department made an error in computing Food Assistance Program (FAP) benefits which resulted in an overissuance to Claimant?

FINDINGS OF FACT

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

(1) Claimant is a FAP recipient.

(2) On October 22, 2009, the Department mailed Claimant a Notice of Overissuance, DHS-4358-A, which states that she was overissued benefits in the amount of [REDACTED] from 07/01/09 – 10/31/09 due to Agency Error – “[REDACTED] [REDACTED] were not budget timely”. (Exhibit 2)

(3) On October 22, 2009, the Department also mailed Claimant an Overissuance Summary, DHS-4358-C, which “explains” how the overissuance was determined. The months listed are 07/01/2009 – 07/31/2009, 09/01/2009 – 09/30/2009 and 10/01/2009 – 10/31/09. The Amount Issued is listed as [REDACTED] and [REDACTED] respectively, the Correct Issuance as [REDACTED] for July and [REDACTED] for September and October and the Amount Overissued as [REDACTED] and [REDACTED] respectively. (Exhibit 5)

(4) The Department budgeted [REDACTED] income for one of [REDACTED]) for countable unearned income for the months of July, August, September and October 2009. (Exhibits 10-15, 19)

(5) Claimant received [REDACTED] continuously from October 2008 through October 2009. (Exhibits 7, 18)

(6) The Department budgeted [REDACTED] of 3 months; July, August and September 2009 - [REDACTED] - [REDACTED] and FIP benefits from [REDACTED]) for countable unearned income for the month of November 2009. (Exhibits 16-21)

(7) On October 29, 2009, the Department received Claimant’s hearing request, DHS-4358-D. (Exhibit 1)

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. Departmental policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Bridges Reference Manual (BRM).

An overissuance is the amount of benefits issued to the client group or CDC provider in excess of what they were eligible to receive. BAM 705, p.5 The amount of the overissuance is the amount of benefits the group or provider actually received minus the amount the group was eligible to receive. BAM 720, p.6 When a client group receives more benefits than they are entitled to receive, DHS must attempt to recoup the overissuance (OI). BAM, p.1

Agency errors are caused by incorrect actions by DHS. BAM 705, p.1 Agency error overissuances are not pursued if the estimated overissuance is less than \$500 per program. BAM 700, p.6 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 \$125 unless the client group is active for the overissuance program or the overissuance is a result of a QC audit finding. BAM 700, p. 4, 5

In the instant case, it appears that the Department failed to budget [REDACTED] income during the period of 07/01/2009 to 10/31/2009 as a result of agency error. However, while the Department offered the “actual” budgets during this period to show

that [REDACTED] was not included, it did not offer “corrected” budgets to show what the correct benefit amount would have been had the proper amount of [REDACTED] been included for each of the months in question. All that was offered was the Overissuance Summary which only lists the Amount Issued, Correct Issuance and Amount Overissued without any calculation(s). This document, in and of itself, is not enough to establish the amount of the overissuance in this case. The undersigned has no way of knowing whether the Department correctly calculated the “Correct issuance”. In addition, the Notice of Overissuance states that the reason for the overissuance is that [REDACTED] and [REDACTED] [REDACTED] was not budgeted. It appears, at least from the documents provided by the Department, that the cash assistance did not begin until October 2009, therefore, it would not have been included in the July – September budgets. Again, the undersigned has no way of knowing whether it was or was not.

With the above said, based on the testimony and documentation offered during and after hearing, I do not find that that the Department established that it acted in accordance with policy. Specifically, the Department failed to establish the amount of the alleged overissuance of FAP benefits to Claimant.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, does not find that the Department acted in accordance with policy. Specifically, the Department failed to establish the amount of the alleged overissuance of FAP benefits to Claimant.

Accordingly, the Department's FAP eligibility determination is REVERSED, it is SO ORDERED.

/s/

Steven M. Brown
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: January 21, 2010

Date Mailed: January 22, 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.

SMB/db

cc:

[REDACTED]