

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: 2010-10240
Issue No: 3052
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
January 7, 2010
Kent County DHS

ADMINISTRATIVE LAW JUDGE: Ivona Rairigh

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 held on January 7, 2010. Claimant personally appeared and testified.

ISSUE

Did the department correctly determine that the claimant is subject to recoupment action for Food Assistance Program (FAP) benefits she received ineligibly due to agency error?

FINDINGS OF FACT

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

1. Claimant was a FAP recipient when she submitted a Semi-Annual Contact Report on April 17, 2009 stating that her husband would be starting a job on May 1, 2009 and that his UCB would end. (Department's Exhibits 1 and 2).

2. On May 15, 2009, claimant's caseworker requested she provide pay stubs and proof of rent expenses by May 26, 2009. (Department's Exhibits 4 and 5).

3. Claimant provided requested information but no action on her FAP benefits to reflect changes in her circumstances was taken. On May 19, 2009, claimant's new caseworker entered the pay and rent information received in May, 2009, and this action resulted in claimant's benefits being reduced from \$426 to \$71 per month.

4. Department further determined that the claimant was overissued FAP benefits due to agency error for the months of July, August, September and October, 2009, total of \$1704. Claimant was mailed a Notice of Overissuance on October 19, 2009 and requested a hearing on October 28, 2009.

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 Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

Departmental policy states that when a client group receives more benefits than they are entitled to receive, DHS must attempt to recoup the overissuance (OI). This requirement applies to all programs administered by the department. Policy further states:

OVERISSUANCE TYPES

Department Error

All Programs

A department error OI is caused by incorrect action (including delayed or no action) by DHS staff or department processes. Some examples are:

- . Available information was not used or was used incorrectly
- . Policy was misapplied
- . Action by local or central office staff was delayed
- . Computer or machine errors occurred
- . Information was not shared between department divisions (services staff, Work First agencies, etc.)
- . Data exchange reports were not acted upon timely (Wage Match, New Hires, BENDEX, etc.)

If unable to identify the type of OI, record it as a department error.

FIP, SDA, CDC, and FAP

Department error OIs are not pursued if the estimated OI amount is less than \$500 per program.

Exception: There is no threshold limit on CDC **system** errors. RRS in central office will recoup these types of overissuances.

FIP, SDA and FAP Only

Note: The department error threshold was lowered to \$500 effective April 1, 2005 and retroactive back to September 1, 2003. If the department error includes September 2003, the \$500 threshold applies. If all months of the error are prior to September 2003, the \$1,000 threshold applies. BAM 700.

Claimant is understandably not happy about having to repay an error caused by her previous caseworker failing to complete the work on her FAP case in a timely manner. Claimant however did receive more FAP benefits than she was entitled to receive. Departmental policy

quoted above which is based on federal rules and regulations leaves the department no choice but to take action to recoup ineligibly received benefits.

It is noted that the claimant testified she is not contesting the computation and amount of the FAP overissuance. Department's representatives indicate that another hearing has taken place recently addressing similar issue with claimant's FAP benefits. The computation and amount of FAP overissuance will therefore not be addressed in this decision.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department correctly determined that the claimant is subject to recoupment action of FAP benefits she received ineligibly due to agency error.

Accordingly, department's action is AFFIRMED, and it is SO ORDERED.

/s/ _____
Ivona Rairigh
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: January 21, 2010

Date Mailed: February 3, 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.

IR [REDACTED]

cc:

[REDACTED]