

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: 2010-14036
Issue No: 3052
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
February 1, 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 February 1, 2010.

ISSUE

Was the claimant properly determined to have an overissuance in the FAP program of \$1755?

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 in Wayne County.
- (2) In July 2009, the Department's budget showed that claimant was due \$367 in FAP benefits.
- (3) The Department had not budgeted in claimant's UCB benefits.

- (4) In December 2009, the Department subsequently determined that claimant had an overissuance of \$1757 in FAP benefits from the months of July 2009 through November 2009.
- (5) The Department admitted that this was an agency error, and would be recouped as such.
- (6) On December 15, 2009, claimant requested a hearing alleging that she should not have to pay the money back because she had fulfilled her obligations to the Department.

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).

Clients must report changes in circumstance that potentially affect eligibility or benefit amount. BAM 105.

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.

Agency error OI's are not pursued if the estimated OI amount is less than \$500 per program. Client error OIs are not established if the OI amount is 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.

In the current case, the Department contends that while the claimant had reported her income as required by policy, this income was incorrectly budgeted by the Department, and claimant was issued more FAP benefits than she was legitimately entitled to; these benefits need to be recouped. Claimant contends that she reported her income, and should not have to pay back the overissuance because of a caseworker mistake.

Unfortunately, even though claimant did report, and the Department made a mistake, this does not change the recoupment prospects. PAM 700 states that the Department must pursue any OI that was the result of agency error if the amount is above \$500. Claimant's OI is above that amount. Therefore, the OI must be recouped, regardless of whose fault the error was.

The OI amount requested for recoupment is correct. The undersigned has reviewed all budgets and found no errors.

Therefore, claimant's FAP overissuance means that the Department is eligible to recoup \$1755 in FAP benefits from claimant.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the claimant was the recipient of an overissuance of FAP benefits in the

amount of \$1755. Therefore, the Department's decision to initiate recoupment of claimant's FAP overissuance was correct.

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

Recoupment of FAP benefits in the amount of \$1755 is authorized.

The Department is **ORDERED** to initiate recoupment of the overissuance, per the regulations contained in BAM 700 pertaining to Agency Error.



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

Date Signed: 04/27/10

Date Mailed: 04/27/10

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:

