

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: 2010-16799
Issue No: 3052
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
February 25, 2010
Washtenaw County DHS

ADMINISTRATIVE LAW JUDGE: Jana A. Bachman

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 February 25, 2010.

ISSUE

Whether claimant was overissued Food Assistance Program (FAP) benefits that the department is entitled to recoup?

FINDINGS OF FACT

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

(1) June 8, 2009, claimant applied for FAP. Claimant reported earnings of [REDACTED] per hour at [REDACTED] hours per week. She indicated that she her husband was out of work. Department Exhibit A, pgs 1-16.

(2) June 8, 2009, the department prepared a FAP budget that included claimant's earnings from her part-time job. A standard 20 percent was deducted as well as a standard deduction of [REDACTED], leaving adjusted gross income of [REDACTED]. After all allowable deductions were taken, claimant had met FAP income of [REDACTED]. Her monthly benefit was determined to be [REDACTED]. Department Exhibit A, pg 27.

(3) October 30, 2008, the department received claimant's semi-annual contact report. Claimant indicated on the report that her husband had returned to work. Under the section "date started," claimant listed 10-15 and a question mark. Claimant signed the report. Department Exhibit A, pgs 28-29.

(4) The department conducted a consolidated income inquiry for claimant's husband. The report revealed claimant's husband received [REDACTED] in earnings during June 2009. He received [REDACTED] during July 2009. He received [REDACTED] during August 2009. During September 2009, claimant received [REDACTED]. During October 2009, [REDACTED]. Department Exhibit A, pgs 34-38.

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).

Department manuals provide the following policy statements and instructions for caseworkers:

Clients must cooperate with the local office in determining initial and ongoing eligibility. This includes the completion of necessary forms. Clients must completely and truthfully answer all questions on forms and in interviews. The client might be unable to answer a question about himself or another person whose circumstances must be known. Allow the client at least 10 days to obtain the needed information.

Bridges Administrative Manual (BAM); 7 CFR 271.6(a); 7 CFR 272.6(a)(b); 7 CFR 273.2(d); 7 CFR 275.129g).

Simplified reporting groups are required to report only when the group's actual gross monthly income exceeds the SR income for their group size. No other change reporting is required.

If the group has an increase in income, the group must determine their total gross income at the end of the month. If the total gross income exceeds the group's SR income limit, the group must report this change to their specialist by the 10th day of the following month, or the next business day if the 10th day falls on a weekend or holiday.

Bridges sends information about simplified reporting including the DHS-1045, simplified six month review to groups assigned to the SR category at:

- Application,
- Redetermination, and
- When assigned to the SR category as an ongoing case.
BAM 200; 7 CFR 273.12(a)(1).

When a client group receives more benefits than they are entitled to receive, DHS must attempt to recoup the overissuance. Overissuance types include agency error, client error, provider error, client's affected intentional program violation, provider suspected intentional

program violation, and intentional program violation. BAM 700; 7 CFR 272.8; 7 USC 2022; R 400.3011, MAC.

In this case, a preponderance of the evidence establishes that claimant failed to report the household's income at application. She failed to timely report the increase in the household income that exceeded the gross income limit for her family. Claimant's countable earnings were clearly in excess of the countable limit during the months August, September and October 2009. Accordingly, claimant was not entitled to receive FAP benefits for those months. As such, the department's action to establish an overissuance for the months of August, September and October 2009 must be upheld. The months of June and July are less clear. Claimant's husband's income was less than the [REDACTED] gross income limit for the group size during those months. No budgets were provided for those months. Accordingly, the department has not established that a FAP overissuance exists for the months of June and July 2009 Finding of Fact 1-4..

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department properly determined that claimant was overissued Food Assistance Program benefits for the months of August, September and October 2009. The department has not established that an overissuance occurred during June and July 2009.

Accordingly, the department's action is partially UPHELD.

/s/ _____
Jana A. Bachman
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: September 23, 2010

Date Mailed: September 30, 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.

JAB/db

cc:

A large black rectangular redaction box covers the names and contact information of the recipients listed under the 'cc:' field.