

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.: 201017173

Issue No.: 3002, 3020

Case No.: ██████████

Load No.: ██████████

Hearing Date:
April 14, 2010

Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Jeanne M. VanderHeide

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Claimant's request for a hearing. After due notice, an in person hearing was conducted on April 14, 2010. The Claimant appeared and testified. ██████████

██████████ FIS and ██████████ FIM appeared on behalf of the Department.

ISSUE

Whether the Department is entitled to recoup a \$1,296.00 FAP over-issuance for the period from February, 2009 to January, 2010 due to the Department's failure to add Claimant's pension income into the FAP budget.

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 was an active FAP recipient.

2. Claimant testified that she receives a pension of \$543.49 and RSDI of \$1179.00 per month.
3. The Claimant's 2009 FAP budget was prepared without the inclusion of her pension income.
4. The Department failed to take action to include Claimant's income.
5. The Department referred the case to a Recoupment Specialist ("RS") for investigation.
6. The Department recalculated the Claimant's FAP budget and determined there was an over-issuance of FAP benefits totalling \$1,296.00. (Exhibit 2, p. 3).
7. As a result of Agency error, the Claimant received a over-issuance for FAP for the period from February, 2009 – January, 2010.
8. The Department sent a Notice of Over-issuance to Claimant on January 14, 2010. (Exhibit 1, p 3).
9. Claimant has a group size of one (1).
10. The Claimant testified that she has a shelter obligation of \$393.69 per month and pays \$647.98 in taxes per year. Claimant is also responsible for paying her utilities.
11. On January 12, 2010, the Department received the Claimant's written request for a hearing protesting the decrease in FAP benefits and the proposed recoupment action.

CONCLUSIONS OF LAW

The Food Assistance Program, 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"), formally known as the Family Independence Agency, administers the

FAP program pursuant to MCL 400.10, *et seq* and MAC R 400.3001-3015. Departmental policies are found in the Bridges/Program Administrative Manual (“BAM/PAM”), the Bridges/Program Eligibility Manual (“BEM/PEM”), and the Reference Tables (“RFT”).

In this case, the Department seeks recoupment of an over-issuance of FAP benefits due to the Department’s failure to to properly include Claimant’s income in the 2009 FAP budget. An over-issuance (“OI”) occurs when a client group receives more benefits than they are entitled to receive. BAM/PAM 700, p. 1. A claim is the resulting debt created by the overissuance of benefits (OI). Id. Recoupment is an action to identify and recover a benefit. Id. The Department must take reasonable steps to promptly correct any overpayment of public assistance benefits, whether due to department or client error. BAMs/PAMs 700, 705, 715, and 725. An agency error OI is caused by incorrect actions by DHS, DIT staff, or department processes. BAM/PAM 705, p. 1. In general, agency error OIs are not pursued if OI amount is under \$500.00 per program according to the policy in effect at the time of the over-issuance. BAM/PAM 705, pp. 1-3.

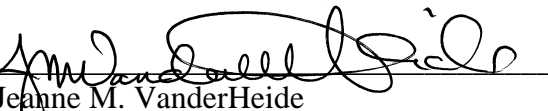
Based on the evidence and testimony presented on the record, the undersigned finds that the failure of the Department to input Claimant’s pension income resulted in a FAP overpayment for the period February, 2009 – January, 2010. The Department’s recoupment action was based on Claimant receiving a correct FAP award of \$14.00 or \$16.00 rather than the monthly award of \$\$115.00-\$140.00 that Claimant actually received. The Administrative Law Judge has further personally checked the budgets and over-issuance calculation set forth by the Department and finds them to be accurate.

Accordingly, based on the foregoing facts and conclusions of law, the Department’s FAP OI and recoupment actions are AFFIRMED.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department improperly calculated the Claimant's FAP benefits from June, 2009 – October 2009 by not including Claimant's pension income.

Accordingly, it is ORDERED that the OI and recoupment for \$1,296 for FAP benefits from February, 2009 through January, 2010 is AFFIRMED.

/s/ 
Jeanne M. VanderHeide
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: May 11, 2010

Date Mailed: May 11, 2010

NOTICE: The law provides that within 30 days of receipt of the above Decision and Order, the respondent may appeal it to the circuit court for the county in which he/she lives.

JV/hw

cc:

