

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: 2010-23018
Issue No: 1030, 3052
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
August 12, 2010
Genesee County DHS

ADMINISTRATIVE LAW JUDGE: Kevin Scully

HEARING DECISION

This matter is before the undersigned Administrative Law Judge by authority of MCL 400.9 and MCL 400.37. Claimant's request for a hearing was received on November 13, 2009. After due notice, a telephone hearing was held on Thursday, August 12, 2010.

ISSUE

Whether the Department of Human Services (Department) properly determined that it is entitled to recoup an overissuance of Food Assistance Program (FAP) and Family Independence Program (FIP) benefits that the Claimant received?

FINDINGS OF FACT

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

- (1) The Claimant is a FAP and FIP recipient.
- (2) On October 22, 2008, the Department sent the Claimant a Verification Checklist requesting that the Claimant verify his citizenship. Department Exhibit 13.

(3) On October 26, 2009, the Department notified the Claimant that due to Department error, the Claimant had received an overissuance of FIP benefits totaling [REDACTED] from May 1, 2009, through October 1, 2009. Department Exhibit 8.

(4) On February 4, 2010, the Department notified the Claimant that due to Department error, the Claimant had received an overissuance of FIP benefits totaling [REDACTED], from October 1, 2008, through April 1, 2009. Department Exhibit 10.

(5) On February 5, 2010, the Department notified the Claimant that due to Department error, the Claimant had received an overissuance of FAP benefits totaling [REDACTED], from January 1, 2009, through August 1, 2009. Department Exhibit 11.

(6) The Claimant is not a United States citizen, and he has not verified his status as a resident alien to the Department.

(7) The Department received the Claimant's request for a hearing on November 13, 2009, protesting the recoupment of FIP and FAP benefits.

CONCLUSIONS OF LAW

The Food Assistance Program (FAP) (formerly known as the Food Stamp 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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), Reference Table Manual (RFT), and the Bridges Reference Manual (BRM).

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 8 USC 601, et seq. The Department of Human Services (DHS or Department) administers the FIP program pursuant to MCL 400.10, et seq., and MAC R 400.3101-3131. The FIP program replaced the Aid to Dependent Children (ADC) program effective October 1, 1996. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), Reference Table Manual (RFT), and the Bridges Reference Manual (BRM).

Clients must cooperate with the local office in determining initial and ongoing eligibility. This includes the completion of necessary forms. BAM 105, p. 5. Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. BAM 130, p. 1. Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level when it is required by policy, required as a local office option, or information regarding an eligibility factor is unclear, inconsistent, incomplete, or contradictory. BAM 130, p. 1. The Department uses documents, collateral contacts, or home calls to verify information. BAM 130, p. 1. A collateral contact is a direct contact with a person, organization, or agency to verify information from the client. BAM 130, p. 2. When documentation is not available, or clarification is needed, collateral contact may be necessary. BAM 130.

An overissuance is the amount of benefits issued to the client group in excess of what they were eligible to receive. BAM 705. The amount of the overissuance is the amount of benefits the group actually received minus the amount the group was eligible to receive. BAM 720. When a client group receives more benefits than they are entitled to receive, the Department must attempt to recoup the overissuance. BAM 700.

Department errors are caused by incorrect actions by the Department. BAM 705.

Department error overissuances are not pursued if the estimated overissuance is less than \$125 per program. BAM 700. 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 quality control audit finding. BAM 700.

A person must be a U.S. citizen or have an acceptable alien status to receive FIP or FAP benefits. BEM 225.

The Claimant received FIP benefits from October 1, 2008, through October 1, 2009. The Claimant also received FAP benefits from January 1, 2009, through August 1, 2009. On October 26, 2009, the Department discovered that the Claimant was not a U.S. citizen, and that it should have discovered this from documents submitted by the Claimant when he applied for benefits. The Department sent the Claimant a Verification Checklist form on October 22, 2008, requesting that he verify his identity and citizenship. The Claimant did not return verification documents to confirm his citizenship.

The Department sent the Claimant notice of a [REDACTED] FIP overissuance on October 26, 2009, a [REDACTED] FIP overissuance on February 4, 2010, and an [REDACTED] FAP overissuance on February 4, 2010. The Department is seeking a recoupment of benefits issued because the Claimant was not eligible for benefits as a U.S. citizen or acceptable alien resident.

The Claimant argued that he is a lawful alien resident of the United States. The Claimant does not dispute that he is not a U.S. citizen, and does not have any evidence of his status as a lawful alien resident of the United States. The Claimant testified that he lost the documentation

that would verify his lawful alien status, and has been unable to obtain replacement documentation.

The Claimant cannot establish his eligibility to receive FIP and FAP benefits because there is no evidence that he is a U.S. citizen or legal alien resident. The Department has established that due to Department error, the Claimant received a total of [REDACTED] of FIP and FAP benefits that he was not entitled to receive. Therefore the Department has established that it is entitled to recoup these benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the Department established that is entitled to recoup a [REDACTED] FIP overissuance and an [REDACTED] FAP overissuance.

The Department's recoupment of overissued FIP and FAP benefits is AFFIRMED. It is SO ORDERED.

/s/ _____
Kevin Scully
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: August 24, 2010

Date Mailed: August 25, 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.

2010-23018/KS

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.

KS/vc

cc:

