

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF THE CLAIM OF:

[REDACTED]

Reg No.:2010-23412
Issue No.: 3015
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: June 29, 2010
Van Buren County DHS

ADMINISTRATIVE LAW JUDGE: Landis Y. Lain

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 held on June 29, 2010. The claimant appeared and testified. Claimant was represented at the hearing by [REDACTED]

ISSUE

Did the Department of Human Services (the department) properly close to recoup over-issued Food Assistance Program benefits for the months of July August and November 2009?

FINDINGS OF FACT

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

- (1) Claimant was a Food Assistance Program benefit recipient.
- (2) On October 29, 2009, the case review was completed and the Food Assistance Program benefits were reduced effective December 1, 2009, and a recoupment notice was sent.

- (3) On November 3, 2009, a correction budget was done by the worker with a change effective in the amount of November overpayment, and a recoupment notice was sent.
- (4) On November 6, 2009, the claimant returned the repay agreement signed with an agreement to pay along with a letter to the worker requesting further clarification.
- (5) On December 3, 2009, the department received a letter from Farmworker Legal Services requesting a hearing and the letter requested that the recoupment benefits cease immediately and benefits remain at \$ [REDACTED]
- (6) The department conceded on the record that it inappropriately determined that claimant had an over-issuance of benefits and inappropriately attempted to recoup the benefits.

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 (formerly known as the Family Independence Agency) administers the FAP program pursuant to CML 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).

Based upon the fact that the department has conceded on the record that it improperly reduced claimant's Food Assistance Program benefits and attempted to recoup over-issued benefits, this Administrative Law Judge finds that the department has not established by the necessary competent, material and substantial evidence on the record that it was acting in compliance with department policy.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the department conceded on the record that it acted inappropriately in this case.

Accordingly, the department's decision is REVERSED. The department is ORDERED to reinstate claimant's Food Assistance Program benefits for the months of July, August, and November 2009 and shall make a re-assessment of claimant's eligibility for said Food Assistance Program benefits and shall provide claimant in writing of her eligibility or lack thereof and shall provide to claimant any benefits to which she was

