

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.: 2010-24003

Issue No.: 3020

Case No.: [REDACTED]

Load No.: [REDACTED]

Hearing Date:

March 31, 2010

Macomb County DHS

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

DECISION AND ORDER

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, a telephone hearing was held on March 31, 2010. The Claimant appeared and testified. [REDACTED] Recoupment Specialist appeared on behalf of the Department.

ISSUE

Was the Department correct in determining an overissuance of Claimant's FAP benefits and for seeking recoupment?

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 an ongoing recipient of FAP benefits.

- (2) On January 10, 2010 the Department determined that an overissuance had occurred due to Department error. The Department treated Claimant's husband's weekly income as biweekly income.
- (3) Claimant received overissuances in the amount of \$4071 under the FAP program between June 2007 and March 2008 due to agency error.
- (4) Claimant requested a hearing on February 5, 2010 contesting the overissuance determination and recoupment of benefits.

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 Administrative Manual ("BAM"), the Bridges Eligibility Manual ("BEM"), and the Program Reference Manual ("PRM").

When a client group receives more benefits than they are entitled to receive, DHS must attempt to recoup the over issuance (OI) if the overissuance is greater than \$125. BPB 2010-005. The amount of the OI is the amount of benefits the group or provider actually received minus the amount the group was eligible to receive. BAM 720, p. 6.

In the present case, Claimant received an overissuance of \$4071. The Department's determination that Claimant received an overissuance of \$4071 in FAP benefits is correct. The Department calculated Claimant's benefit treating weekly income as biweekly income. The Claimant at hearing questioned the fairness of recouping benefits for a Department mistake but

Department policy is clear that benefits must be recouped even when it is the result of Department error. BAM 705.

Claimant complained at hearing that she was persuaded to withdraw a previous hearing request addressing these same issues. Claimant's rights were not affected by the previous withdrawal, she had the ability to present the same arguments at this hearing that she would have had at the previous scheduled hearing. Claimant complained at hearing that many of the weeks in question he worked overtime and questioned whether overtime pay should be considered. Department policy is clear that all earned income is to be considered, even if it is from irregular overtime. BEM 500.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that Claimant received overissuances in FAP program benefits of \$4071 due to agency error, and it is ORDERED that the Department's decision in this regard be and is hereby AFFIRMED.

/s/  _____
Aaron McClintic
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: April 08, 2010

Date Mailed: April 14, 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.

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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.

AM/hw

cc:

