

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.: 2010-24192

Issue No.: 3020

Case No.: [REDACTED]

Load No.: [REDACTED]

Hearing Date:

March 29, 2010

Wayne 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 29, 2010. The Claimant appeared and testified. [REDACTED] FIM and [REDACTED] ES 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 on going recipient of FAP benefits.
- (2) Claimant reported a change in her address and the fact that she was no longer responsible for utilities in September 2009.

- (3) On February 9, 2010 the Department determined that an overissuance had occurred due to Department error. The Department failed to process the change in Claimant's utility expenses.
- (4) Claimant received overissuances in the amount of \$428 under the FAP program between November 1, 2009 and February 28, 2010 due to agency error.
- (5) Claimant requested a hearing on February 15, 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 Program Administrative Manual ("PAM"), the Program Eligibility Manual ("PEM"), 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. PAM 720, p. 6.

In the present case, Claimant received an overissuance of \$428. Claimant received a shelter deduction that included utility expenses that she did not have. The Department's determination that Claimant received an overissuance of \$428 in FAP benefits is correct. 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.

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 \$428 due to agency error, and it is ORDERED that the Department's decision in this regard be, and is hereby, AFFIRMED.

/s/ Aaron McClintic

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

Date Signed: April 8, 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.

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:

