

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.: 2010-24235
Issue No.: 3052
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
April 1, 2010
Wayne County DHS (17)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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, a telephone hearing was conducted from Detroit, Michigan on April 1, 2010. Claimant appeared and testified; [REDACTED] also appeared and testified on behalf of Claimant. On behalf of Department of Human Services (DHS), [REDACTED], Specialist, and [REDACTED], Specialist, appeared and testified.

ISSUE

Whether Claimant is responsible for repayment of a \$634 overissuance in FAP benefits.

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 applied for FAP benefits on 6/20/95.
2. Claimant's employment with Induction Services was not budgeted as part of Claimant's FAP benefits.

3. The failure to budget Claimant's employment resulted in overissuance of \$634 in FAP benefits.
4. Claimant was mailed notice of the overissuance in 1/2001.
5. The recoupment was inactive until 8/2009 when DHS began recouping Claimant's FAP benefits at a rate of \$10/month.
6. Claimant submitted a hearing request on 1/7/10 disputing the recoupment of FAP benefits.

CONCLUSIONS OF LAW

The Food Assistance Program (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 (formerly known as the Family Independence Agency) 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) and the Reference Tables Manual (RFT).

When a client group receives more benefits than they are entitled to receive, DHS must attempt to recoup the overissuance (OI). BAM 700 at 1. An OI is the amount of benefits issued to the client group in excess of what they were eligible to receive. *Id.* DHS may pursue an OI whether it is a client caused error or DHS error. *Id.* at 5. The distinction matters only in the amount being recouped. The \$634 involved in the present case may be recouped whether the error was caused by claimant or DHS.

DHS must prevent OI by following BAM 105 requirements and by informing claimants of the following: DHS applicants and recipients are required by law to give complete and

accurate information about their circumstances, DHS applicants and recipients are required by law to promptly notify DHS of any changes in circumstances within 10 days and incorrect, late reported or omitted information causing an OI can result in cash repayment or benefit reduction.

Claimant contends that she never applied for FAP benefits in 1995 and should not be responsible for overissuance of FAP benefits. Claimant testified that she never lived at the address listed in the application and that someone must have applied for FAP benefits using her name. Claimant also denied working for Induction Services. Claimant's witness testified to the same.

The undersigned is skeptical of Claimant's argument without documentary evidence. Claimant was not able to present a police report or any other document in support of her claim.

DHS presented an Assistance Application (DHS-1171) (Exhibit 4) showing multiple Claimant signatures; the DHS-1171 included signatures of witnesses to Claimant's signature. DHS also presented a UB-120 Wage Match Report and Employment Verification (Exhibit 5) showing income from Claimant's employment with Induction Services. DHS also submitted a 1/26/01 Notice of Overissuance (FIA-4358) and an OIG report summarizing how the \$634 amount was calculated. All of the above documents had Claimant's social security number and tend to show that Claimant: received FAP benefits during the period in question, worked for Induction Services and received FAP benefits that were calculated without factoring Induction Services employment income.

Though DHS did not establish fraud by Claimant, a sufficient showing was made that Claimant received an overissuance of \$634 in FAP benefits. It is found that Claimant is responsible for repayment of \$634 in FAP benefits.

DECISION AND ORDER

The actions taken by DHS are AFFIRMED. The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly established overissuance of \$634 in FAP benefits.

Christian Gardocki

Christian Gardocki
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 4/27/2010

Date Mailed: 4/27/2010

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.

CG/jlg

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