

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: 2010-30442
Issue No: 3052; 6019
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
May 11, 2010
Sanilac 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 January 28, 2010. After due notice, a telephone hearing was held on Tuesday, May 11, 2010.

ISSUE

Whether the Department of Human Services (Department) properly determined that the Claimant received an overissuance of Food Assistance Program (FAP) and Child Development and Care program (CDC) 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) The Claimant received FAP benefits as a group of four from August 1, 2009 through October 31, 2009.

(2) The Claimant received CDC benefits from July 5, 2009 through October 10, 2009.

(3) In October of 2009, the Department discovered it had entered the Claimant's income into the Claimant's FAP and CDC budgets incorrectly since July 5, 2009.

(4) On December 4, 2009, the Department sent notice to the Claimant that as a result of Department error, the Claimant had received benefits she was not entitled to.

(5) On January 28, 2010, the Department received the Claimant's request for a hearing, protesting a recoupment of FAP and CDC benefits.

CONCLUSIONS OF LAW

The Child Development and Care program is established by Titles IVA, IVE, and XX of the Social Security Act, the Child Care and Development Block Grant of 1990, and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The program is implemented by Title 45 of the Code of Federal Regulations, Parts 98 and 99. The Department of Human Services (DHS or Department) provides services to adults and children pursuant to MCL 400.14(1) and MAC R 400.5001-5015. 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 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).

For FAP purposes, all earned and unearned income available to the Claimant is countable. Earned income means income received from another person or organization or from self-employment for duties that were performed for compensation or profit. Unearned income means all income that is not earned, including but not limited to funds received from the Family Independence Program (FIP), State Disability Assistance (SDA), Child Development and Care (CDC), Medicaid (MA), Social Security Benefits (RSDI/SSI), Veterans Administration (VA), Unemployment Compensation Benefits (UCB), Adult Medical Program (AMA), alimony, and child support payments. The amount counted may be more than the client actually receives because the gross amount is used prior to any deductions. BEM 500.

The Department determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. Actual income is income that was already received. Prospective income is income not yet received but expected. Prospective budgeting is the best estimate of the client's future income. BEM 505.

All income is converted to a standard monthly amount. If the client is paid weekly, the Department multiplies the average weekly amount by 4.3. If the client is paid every other week, the Department multiplies the average bi-weekly amount by 2.15. BEM 505.

When a client group receives more benefits than they are entitled to receive, the Department must attempt to recoup the overissuance. BAM 700. An Department error overissuance is the result of an incorrect action by a Department staff member. BAM 700. Client error overissuance is the result of a client providing incorrect or incomplete information to the Department. BAM 700. The Department must attempt to pursue a recoupment when either

Department error or client error is identified, except where the overissuance is less than [REDACTED] for FAP benefits. BAM 700.

In August of 2009, the Department completed a FAP budget, which determined that the Claimant was entitled to a monthly FAP allotment of [REDACTED]. This budget contained [REDACTED] in earned income, which was reduced by the 20% earned income deduction and the [REDACTED] standard deduction leaving an adjusted gross income of [REDACTED]. A net income of [REDACTED] was determined by deducting the Claimant's [REDACTED] excess shelter deduction from her adjusted gross income. A group of four with a net income of [REDACTED] is entitled to a FAP allotment of [REDACTED]

On December 4, 2009, the Department discovered that the Claimant had actually received [REDACTED] in earned income for August of 2009, an amount that the Claimant does not dispute. The Department completed a second FAP budget using the corrected income. The increased amount of earned income received causes the Claimant's net income to rise to [REDACTED], which exceeds the net income limit and makes her ineligible for FAP benefits. RFT 250. Because the Claimant was not eligible for FAP benefits due to excess income, the Claimant received a [REDACTED] FAP overissuance.

The Department used the same erroneous income to determine the Claimant's monthly FAP allotment for the following two months. Therefore the Claimant received a Department error overissuance of [REDACTED] for September 2009, and [REDACTED] for October 2009. The Department issued a total of [REDACTED] in FAP benefits that the Claimant was not entitled to receive due to the incorrect amount of earned income used to calculate the FAP budget.

In August of 2009, the Department completed a CDC budget and approved the Claimant for CDC benefits. The Department had been using the same income data it had used to complete the Claimant's FAP budget until December 4, 2009, when it was discovered that income was

being underreported. The Claimant received [REDACTED] in gross earned income for August of 2009. Therefore the Claimant was over the income limit of [REDACTED], and was ineligible for CDC benefits. RFT 270. However, before the Department corrected the Claimant's income, it had overissued a total of [REDACTED] in CDC benefits due to Department error, because the Claimant should not have been eligible to receive any CDC benefits.

The Department failed to budget the Claimant's income correctly, which resulted in an overissuance of FAP and CDC benefits. However, policy requires the Department to recoup overissuances over [REDACTED] caused by Department error. I find that the Department has established that it acted in accordance with policy determining that it was entitled to recoup overissuances of [REDACTED] in FAP benefits, and [REDACTED] in CDC benefits from the Claimant.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department correctly determined that the Claimant was not eligible to receive FAP and CDC benefits due to excess income. Furthermore, the Department also correctly determined that the Claimant must repay a FAP overissuance of [REDACTED], and a CDC overissuance of [REDACTED], benefits she received ineligibly because of the Department's error.

The Department's actions are AFFIRMED. It is SO ORDERED.

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

Date Signed: May 20, 2010

Date Mailed: May 21, 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 90 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing 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:

