

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: 2010-30995
Issue No: 3052
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
June 8, 2010
Kalamazoo County DHS

ADMINISTRATIVE LAW JUDGE: Gary F. Heisler

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; and MCL 400.37 upon claimant's request for a hearing. After due notice, a telephone hearing was held on June 8, 2010. Claimant appeared and testified.

ISSUE

Did the Department of Human Services over-issue Claimant \$ [REDACTED] of Food Assistance Program (FAP) benefits between July 1, 2006 and April 30, 2007, which need to be recuperated?

FINDINGS OF FACT

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

(1) On January 25, 2006, Claimant's oldest son, [REDACTED] began employment at [REDACTED] [REDACTED] John was a senior in High School. [REDACTED] Employment at [REDACTED] continued through April 2007.

(2) On May 1, 2006, Claimant submitted an application for Food Assistance Program

(FAP) benefits. The application identified the benefit group as Claimant and her two sons. The application did not include income information for John.

(3) In June 2006, [REDACTED] was 18 years old and graduated from High School. [REDACTED] income was not added to Claimant's Food Assistance Program (FAP) financial eligibility budget.

(4) In September 2006, [REDACTED] began college and continued to live at home with Claimant.

(5) On October 26, 2006, Claimant submitted a Semi-Annual Contact Report (DHS-1046). Claimant did not include [REDACTED] income on the report. Claimant did report that she had not received any child support since 8/16/06. The Department case worker removed child support from Claimant's Food Assistance Program (FAP) financial eligibility budget beginning with November 2006.

(6) On March 23, 2007, the Department received a Verification of Employment (DHS Form 38) from [REDACTED] [REDACTED] showing all of [REDACTED] income since January 2006.

(7) On March 15, 2010, Claimant was sent a Notice of Overissuance (DHS-4358).

(8) On March 25, 2010, Claimant submitted a request for hearing.

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 (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) and the Program Reference Manual (PRM).

Department policy provides the following guidance for case workers. The Department's policies are available on the internet through the Department's website.

INCOME FROM EMPLOYMENT

DEPARTMENT POLICY

All Types of Assistance (TOA)

This item identifies both of the following:

- Which income types are considered earned.
- Which earned income types are excluded or counted for each TOA.

STUDENT EARNINGS DISREGARD

All TOA

This disregard applies to all sources of **earned** income including wages and training income. It ends the month after the student stops meeting a requirement (Example: month after reaching age 18).

FIP, RAP, SDA, CDC and FAP Only

Bridges disregards the earnings of an individual who is **all** of the following:

- Under age 18.
- Attending elementary, middle or high school including attending classes to obtain a GED.
- Living with someone who provides care or supervision.

**BAM 7 15 CLI ENT/CDC PROVIDER ERROR
OVERISSUANCE**

DEPARTMENT POLICY

All Programs

Recoupment policies and procedures vary by program and overissuance (OI) type. This item explains client error OI processing and establishment. [BAM 700](#) explains OI discovery, OI types and standard of promptness. BAM 705 explains agency error and BAM 720 explains Intentional Program Violations (IPV).

Definitions

All Programs

A client/CDC provider error OI occurs when the client received more benefits than they were entitled to because the client/CDC provider gave incorrect or incomplete information to the department.

OVERISSUANCE CALCULATION

FIP, SDA, CDC and FAP

Benefits Received

FIP, SDA and CDC Only

The amount of benefits received in an OI calculation includes:

- Regular warrants.
- Supplemental warrants.
- Duplicate warrants.
- Vendor payments.
- Administrative recoupment deduction.
- EBT cash issuances.
- EFT payment.
- Replacement warrants (use for the month of the original warrant).

Do **not** include:

- Warrants that have not been cashed.
- Escheated EBT cash benefits (SDA only).

FAP Only

The amount of EBT benefits received in the OI calculation is the **gross** (before AR deductions) amount **issued** for the benefit month.

Determining Budgetable Income

FIP, SDA, CDC and FAP

If improper reporting or budgeting of income caused the OI, use actual income for the OI month for that income source, converting to a monthly amount if appropriate.

Exception: For FAP only, do not convert income which the client failed to report or was reported on a wage match.

Any income properly budgeted in the issuance budget remains the same in that month's corrected budget. (BEM 501)

In this case there is no dispute that an over-issuance occurred. Claimant testified that she misunderstood the student income policy and thought it still applied to [REDACTED] because he was a college student. The Claimant also expressed the concern that her child support had ended in August 2006, and whether child support was removed from the calculations after that date. The over-issuance budgets have been reviewed. The budgets were prepared in accordance with the above cited policy.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the Department of Human Services over-issued Claimant \$ [REDACTED] of Food Assistance Program (FAP) benefits between July 1, 2006 and April 30, 2007, which need to be recuperated.

It is ORDERED that the actions of the Department of Human Services, in this matter, are UPHELD.

/s/

Gary F. Heisler
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: June 14, 2010

Date Mailed: June 16, 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.

GFH/alc

cc:

[REDACTED]