

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: 2010-32246

Issue No: 3020

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

June 9, 2010

Macomb County DHS

ADMINISTRATIVE LAW JUDGE: Jonathan W. Owens

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 hearing was held on June 9, 2010. Claimant's representative appeared and testified.

ISSUE

Did the Department properly determine the Claimant had received an over-issuance of Food Assistance Program (FAP) benefits because of Department error?

FINDINGS OF FACT

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

1. On September 1, 2009, the Claimant and his mother requested their FAP benefits be separated.
2. On October 5, 2009, the Department took action on the request and separated FAP benefits as of November 1, 2009.

3. On December 8, 2009, the Department determined an over-issuance had occurred.
4. On April 15, 2010, the Claimant requested a 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) administers the FAP program pursuant to MCL 400.10, et seq., and MAC R 400.3001-3015. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

In the present case, the Claimant requested a hearing regarding the over-issuance of FAP benefits. The Department acknowledges the Claimant and his mother reported a change and this was in fact reported on September 1, 2009. The Department further acknowledges no change was made until October 5, 2009 with the actual case action not taking effect until November 1, 2009. Since the Department failed to separate the cases, the Claimant's mother continued to receive FAP benefits for both herself and the Claimant. However, the Claimant never received any other FAP benefits during this same period.

Bridges, in December, determined an over-issuance had occurred based upon the reported date of change in September 2009. This is incorrect since the Department never issued excess FAP benefits during the period in question. The Change was not made until November 1, 2009 and the Claimant never received any benefits beyond those budgeted in his mother's case, which a group size of 2 was in fact eligible to receive. Had the Department also issued benefits to the Claimant in addition to those given on his mother's case, then an over-issuance would have occurred.

In part, the policies provide:

BENEFIT OVERISSUANCES: BAM 700, p. 1

DEPARTMENT POLICY

All Programs

When a customer group receives more benefits than they are entitled to receive, the department must attempt to recoup the over issuance (OI).

The **Automated Recoupment System (ARS)** is the part of CIMS that tracks all FIP, SDA and FAP OIs and payments, issues automated collection notices and triggers automated benefit reductions for active programs.

An **over issuance (OI)** is the amount of benefits issued to the customer group in excess of what they were eligible to receive.

Over issuance Type identifies the cause of an over issuance.

Recoupment is a department action to identify and recover a benefit over issuance. PAM 700, p.1.

PREVENTION OF OVERISSUANCES

All Programs

The department must inform customers of their reporting responsibilities and act on the information reported within the standard of promptness.

During eligibility determination and while the case is active, customers are repeatedly reminded of reporting responsibilities, including:

- acknowledgments on the application form, **and**
- your explanation at application/re-determination interviews, **and**
- customer notices and program pamphlets.

The department must prevent OIs by following PAM 105 requirements and by informing the customer or authorized representative of the following:

- Applicants and recipients are required by law to give complete and accurate information about their circumstances.
- Applicants and recipients are required by law to promptly notify the department of any changes in circumstances within 10 days.
- Incorrect, late reported or omitted information causing an OI can result in cash repayment or benefit reduction.
- A timely hearing request can delete a proposed benefit reduction.

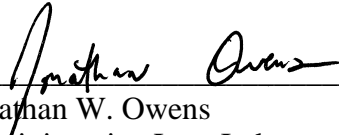
If the department is upheld or the customer fails to appear at the hearing, the customer must repay the OI.

Record on the application the customer's comments and/or questions about the above responsibilities. PAM 700, p.2.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department of Human Services was not acting in compliance with Department policy when it determined a FAP over-issuance had occurred.

Accordingly, the Department's decision is REVERSED and the Department is to remove the over-issuance from the Claimant's FAP case.



Jonathan W. Owens
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 07/01/10

Date Mailed: 07/01/10

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.

JWO/dj

cc:

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