

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: 201035492

Issue No: 3020

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

June 14, 2010

Macomb County DHS

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Department's request for a hearing. After due notice, a telephone hearing was conducted from Detroit, Michigan on June 14, 2010. The Claimant appeared and testified on her own behalf and also had a witness, who did not testify. Charisse Griffin, ES appeared on behalf of the Department.

ISSUE

Whether the Claimant received an over-issuance of Food Assistance Program (FAP) benefits due to Agency error?

FINDINGS OF FACT

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

1. The Claimant applied for benefits on October 23, 2009 and provided the Department with the correct hourly rate of pay she received and the necessary verification.

2. The Claimant was very precise and advised the department of her income and that her rate of pay was \$16.00 per hour. Claimant Exhibit 1
3. The Department incorrectly entered the claimant's income at a pay rate of \$10.00 per hour rather than \$16.00 when preparing the claimant's FAP budget. Exhibit 1
4. Using a pay rate of \$10 an hour resulted in FAP benefits in the amount of \$373 per month. Exhibit 1
5. Using a pay rate of \$16 an hour, the Claimant was not entitled to receive FAP benefits. Exhibit 2
6. As a result of the Agency error, the claimant was issued FAP benefits she was not entitled to receive.
7. The claimant received FAP benefits in the amount of \$373 in November, 2009; \$373 in December, 2009; and \$371 in January, 2010. Exhibit 3
8. The Claimant was sent a Notice of Over-issuance on December 28, 2009. Exhibit 4
9. The claimant received an over-issuance in the amount of \$1113 and was sent a Notice of Balance due on May 1, 2010. Exhibit 5
10. The Claimant did not dispute the amount of income that she received or the amount of the over-issuance; however, the Claimant felt it was unfair for the Department to seek repayment, as the error was not her fault and her financial situation was now worsened due to the Department's error.
11. The Department's calculation of the over-issuance in the amount of \$1113 is correct.
12. The Claimant requested a hearing on January 7, 2010.

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 Bridges Administrative Manual (“BAM”), the Bridges Eligibility Manual (“BEM”), and the Bridges 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). BAM 700, p. 1. DHS must inform clients of their reporting responsibilities and prevent OIs by following BAM 105 requirements informing the client of the requirement to promptly notify DHS of all changes in circumstances within 10 days. BAM 700, BAM 105 The Department is required to recoup over-issuance even when an Agency error occurs. An Agency error is an incorrect action by the Agency BAM 700 page 3.

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. BAM 720, p. 6.

In the present case, the Department clearly acknowledges that it was at fault and made an entry error in the hourly rate the claimant earned when creating the claimant’s FAP budget. This error resulted in the Claimant receiving benefits she was not entitled to receive. Unfortunately, under these circumstances, the department is entitled to seek a recoupment of the overpayment. The Department has established that there was an over-issuance and the amount of the over-issuance. The Department has met its burden of proof and, unfortunately, there is no remedy for Agency error which exists to excuse repayment by an innocent claimant who made no mistake in reporting her income. On the other hand, the Claimant did receive the monetary equivalent of

\$1113 in FAP benefits. Under these circumstances, it must be concluded that the Department is entitled to a finding of an over-issuance of FAP benefits in the amount of \$1113 and is entitled to a recoupment of that amount.

DECISION AND ORDER

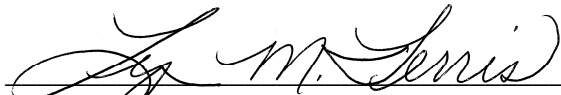
The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department has established, conclusively, the amount that the Claimant received in over-issuance of FAP benefits. The Department is entitled to recoup from the claimant for the over-issuance of FAP benefits received.

Therefore, it is ordered that:

The Department's finding of an over-issuance in the amount of \$1113 is correct and therefore must be AFFIRMED.

The Department is entitled to a recoupment in the amount of \$1113.

The Claimant is required to reimburse the Department for FAP benefits ineligibly received in the amount of \$1113.



Lynn M. Ferris.
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 06/21/10

Date Mailed: 06/23/10

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.

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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.

LMF/dj

cc:

