

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: 2010-37490
Issue No: 3052
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
June 29, 2010
Grand Traverse 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 May 20, 2010. After due notice, a telephone hearing was held on Tuesday, June 29, 2010.

ISSUE

Whether the Department of Human Services (Department) properly determined the Claimant's Food Assistance Program (FAP) eligibility?

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 applied for FAP benefits on May 3, 2010.

(2) The Claimant pled guilty to Attempted Welfare Fraud on August 5, 1994.

Claimant's Exhibit A.

(3) The Claimant received an overissuance of FAP benefits in the amount of [REDACTED], and was ordered by the Circuit Court of [REDACTED] County to pay this amount to the Department as restitution. Department Exhibit 5.

(4) The Claimant was eligible to receive FAP benefits in May and June of 2010. The Department reduced the Claimant's FAP allotment by [REDACTED] for May and [REDACTED] for June, and applied these amounts to the balance of the FAP overissuance.

(5) The Claimant owes a balance of [REDACTED] as of June 29, 2010, for the overissuance of FAP benefits. Department Exhibit 5.

(6) The Department received the Claimant's request for a hearing on May 20, 2010, protesting the recoupment of money from his FAP allotment.

CONCLUSIONS OF LAW

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), 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), Reference Table Manual (RFT), and the Bridges Reference Manual (BRM).

An overissuance is the amount of benefits issued to the client group in excess of what they were eligible to receive. BAM 705. The amount of the overissuance is the amount of benefits the group actually received minus the amount the group was eligible to receive. BAM 720. When a client group receives more benefits than they are entitled to receive, the Department must attempt to recoup the overissuance. BAM 700.

Agency errors are caused by incorrect actions by the Department. BAM 705. Agency error overissuances are not pursued if the estimated overissuance is less than \$125 per program. BAM 700. Client errors occur when the customer gave incorrect or incomplete information to the Department. Client errors are not established if the overissuance is less than \$125 unless the client group is active for the overissuance program, or the overissuance is a result of a QC audit finding. BAM 700.

The Department does not collect overissuances of FAP benefits where 10 years has passed since the date of the last payment, and 6 years since the last payment for the Family Independence Program (previously administered as the Aid to Dependent Children program). BAM 725.

The Claimant pled guilty to Attempted Welfare Fraud on [REDACTED], and the court ordered him to pay [REDACTED] in restitution for an overissuance of FAP benefits (previously known as the Food Stamp program), and [REDACTED] in restitution for an overissuance of Aid to Dependent Children (ADC) benefits. The Claimant does not dispute that he received funds that he was not entitled to receive, or that he was obligated to repay these funds to the Department. The Department asserts that the Claimant has an outstanding balance of [REDACTED] towards his FAP overissuance, and the Claimant disputes the Department's records of his overissuance balance.

The table consists of approximately 6 columns and 20 rows. The first column is a large, solid black redaction. The second column contains small black boxes. The third and fourth columns contain larger black redactions. The fifth and sixth columns contain smaller black boxes and redactions. The overall structure suggests a ledger or record-keeping table where specific data points have been obscured.

These records show that the Claimant sent the Court a total of [REDACTED], and the Court sent the Department a total of [REDACTED].

For each payment in the Court's records, there is a corresponding receipt in the Department's records showing receipt of that payment. The amount that the Court collected from the Claimant includes restitution payments as well as court fines, court fees, and court appointed attorney fees. Whether the court withheld payments made by the Claimant that should

have gone to the Department to pay the overissuance of FAP benefits cannot be determined from the evidence presented at the hearing, but this information is not relevant to the Department's determination of the Claimant's eligibility to receive FAP benefits.

Based on the evidence and testimony presented during the hearing, I find that the Department has established that the Claimant has an outstanding balance of overissued FAP benefits that he owes to the Department. The Department acted according to policy when it determined the Claimant's eligibility for FAP benefits, and properly reduced his monthly allotment to recoup the remaining overissuance of benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department acted in accordance with policy in determining the Claimant's FAP eligibility.

The Department's FAP eligibility determination is AFFIRMED. It is SO ORDERED.

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

Date Signed: July 9, 2010

Date Mailed: July 12, 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.

KS/vc

cc:

