

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201044187
Issue No.: 3020
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: August 16, 2010
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Claimant's request for a hearing. After due notice, a telephone hearing was held on August 16, 2010. The Claimant appeared and testified. [REDACTED], ES appeared on behalf of the Department.

ISSUE

Was the Department correct in determining an overissuance of Claimant's FAP benefits and for seeking recoupment?

FINDINGS OF FACT

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

- (1) Claimant was an ongoing recipient of FAP benefits.
- (2) On December 7, 2009 the Department determined that an overissuance had occurred due to Department error. Unemployment income that should have been included was not.
- (3) Claimant received overissuances in the amount of \$456 under the FAP program. Claimant received \$367 when she should have received \$139 for January and February 2010.
- (4) Claimant requested a hearing on February 8, 2010 contesting the overissuance determination and recoupment of benefits.

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 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) if the overissuance is greater than \$125. BPB 2010-005. 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.

For January and February 2010 Claimant received \$367 in FAP benefit when she was entitled to \$139. Claimant received overissuances of \$456. Claimant questioned the fairness of recouping benefits for agency error. Department policy is very clear that overissuances over \$125 are recouped, even when it is result of agency error. BAM 720.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that Claimant received overissuances in FAP program benefits of \$456 due to agency error, and it is ORDERED that the Department's decision in this regard be and is hereby AFFIRMED.

/s/



Aaron McClintic
Administrative Law Judge
For Ismael Ahmed, Director
Department of Human Services

Date Signed: August 26, 2010

Date Mailed: August 26, 2010

201044187/AM

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 of the rehearing decision.

AM/hw

cc:

