

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.: 2010-44484
Issue No.: 3019, 3020, 3052
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: August 19, 2010
DHS County: Macomb (36)

ADMINISTRATIVE LAW JUDGE: Jan Leventer

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to Michigan Compiled Laws (MCL) Sections 400.9 and 400.37 and on Claimant's request for a hearing. After due notice, a telephone hearing was held on August 19, 2010. Claimant appeared and testified. [REDACTED] Claimant's representative in this matter, [REDACTED], also appeared and testified. [REDACTED], appeared and testified on behalf of the Michigan Department of Human Services (DHS).

ISSUES

1. Whether Claimant is eligible for Food Assistance Program (FAP) benefits beginning February 4, 2010?
2. Whether DHS has established that Claimant received an overissuance (OI) of \$979?

FINDINGS OF FACT

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

1. On February 4, 2010, Claimant applied for FIP benefits for herself and her daughter, [REDACTED], whose date of birth is [REDACTED]. On her application, she also indicated she was pregnant and expected her second child to be born on or about [REDACTED].

2. On March 16, 2010, DHS issued a Notice of Case Action denying FAP benefits to Claimant for the reason that her daughter was not eligible and that Claimant failed to provide information necessary to verify her daughter's eligibility.
3. The March 16, 2010, Notice of Case Action also contained a section entitled "Correction of Benefits," and stated that DHS owes Claimant \$273 in benefits from an unidentified program from 9/1-10/31/2009.
4. The "Correction of Benefits" section also states that Claimant owes \$979 to DHS "for a previously established (sic) overissuance(s)." The benefit program was not identified.
5. On May 27, 2010, Claimant filed a hearing request with DHS

CONCLUSIONS OF LAW

FAP was established by the Food Stamp Act of 1977 and is implemented by Federal regulations found in Title 7 of the Code of Federal Regulations. DHS administers FAP pursuant to MCL Section 400.10 *et seq.* and MACR 400.3001-3015. DHS' FAP policies and procedures are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT). These manuals are available online at www.michigan.gov/dhs-manuals.

BEM 212, "Food Assistance Program Group Composition," is the manual section that applies in this case and DHS cited this section to the court. BEM 212, on page 10, lists the possible types of verification that can be required regarding a child's age, such as a birth certificate, hospital certificate, school and medical records, etc. BEM 212, p. 10.

I find no evidence or testimony in the record to explain why [REDACTED] is ineligible for FAP benefits. Further, I find no evidence or testimony in the record to explain what, if any, verification Claimant failed to provide in order to verify eligibility for [REDACTED]. There is no DHS Verification Checklist document in evidence to establish that DHS ever requested a birth certificate or other document verifying [REDACTED] birth and her date of birth.

I therefore conclude that Claimant's daughter, [REDACTED], was wrongfully determined to be ineligible and is entitled to FAP benefits in accordance with the eligibility of the family group to which she belongs. I find that this justification for the denial of Claimant's benefits is not supported by the evidence in this case and is incorrect.

I next turn to the question of overissuance, and I find there is no evidence in the record to establish that an OI occurred in this case. The record contains a mere statement on an unsigned document that Claimant owes \$979. The document is not a form regularly used to announce overissuances and recoupments to claimants, but rather, it contains other types of information as well as a short announcement of OI. The statement on the Case Action notice does not even identify the public assistance program which made the overissuance or the time period in which it occurred. I conclude that the Case Action notice is not a document which proves that an OI exists, and the normal procedures for proving OI have not been followed in this case.

Therefore, having considered all of the evidence and testimony as a whole, I conclude this record is insufficient to establish that an OI occurred and I DENY the Department's request for a finding of overissuance.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that DHS' denial of FAP benefits to Claimant is to be REVERSED. DHS shall accept and process Claimant's application as a FAP application effective February 4, 2010, for a FAP group of three persons, i.e., Claimant and her (now) two daughters. DHS shall process Claimant's application in accordance with all DHS policies and procedures.

The Administrative Law Judge further finds that no overissuance occurred in this case, and DHS' request for a finding of overissuance and an order for recoupment is DENIED.



Jan Leventer
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: August 20, 2010

Date Mailed: August 20, 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.

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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.

JL/pf

cc:

