

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: 2010-47885
Issue No: 3052
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
September 9, 2010
Kent County DHS

ADMINISTRATIVE LAW JUDGE: Gary F. Heisler

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 September 9, 2010. Claimant appeared and testified.

ISSUE

Did the Department of Human Services over-issue Claimant \$ [REDACTED] of Food Assistance Program (FAP) benefits between April 1, 2009 and January 31, 2010, which the Department is entitled to recoup?

FINDINGS OF FACT

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

- (1) On April 22, 2009 Claimant submitted an application for Food Assistance Program (FAP) benefits. Claimant reported Unemployment Compensation Benefits (UCB) for both her self and her husband, [REDACTED]. The application also stated that [REDACTED] pays \$ [REDACTED] per month in child support. When the Department determined the group's eligibility for Food Assistance Program (FAP) benefits, [REDACTED] UCB was not included. The Department began paying Claimant \$ [REDACTED] per month of Food Assistance Program (FAP) benefits.
- (2) On June 29, 2009 [REDACTED] found employment again.
- (3) On September 2, 2009 the Department received information on [REDACTED] employment.

- (4) On January 13, 2010 the Department discovered the budgeting error for [REDACTED] UCB and referred the case to recoupment.
- (5) On June 2, 2010 Claimant was sent a notice of over-issuance.
- (6) On June 14, 2010 Claimant submitted a request for 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 or department) 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) and the Program Reference Manual (PRM).

In this case Claimant does not dispute that she was overpaid some amount of Food Assistance Program (FAP) benefits. During the hearing the income amounts used for both Claimant and [REDACTED] were examined and Claimant stated the amounts were accurate. During the hearing it was determined that Claimant had reported [REDACTED] income in September 2009 and the Recoupment Specialist stipulated that the budgets for October through December 2009 needed to be rerun with [REDACTED] income as reported earned income instead of unreported earned income. That distinction is important because 20% of reported earned income is removed from net income but ALL unreported earned income is included in net income. The recalculated monthly budgets and summary amounts were submitted after the hearing.

The close scrutiny of budgets performed in deciding this case revealed other errors in the monthly over-issuance budgets. Specifically, the evidence in the record shows that [REDACTED] had earned income every month between July and December 2009. The monthly over-issuance budget for July and August of 2009 do not include [REDACTED] earned income. Additionally the monthly over-issuance budget for May through August 2009 indicate Claimant's group was eligible for benefits but do not include any child support amount paid by [REDACTED] as reported in the application. While it is possible that no payments were made those months, there is no evidence in the record to show child support payments should not be included in the group's financial eligibility budget.

While it appears that an over-issuance did occur, the specific amount cannot be determined from the evidence in this record. Therefore, the Department's action cannot be upheld.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the Department of Human Services DID NOT over-issue Claimant

\$ [REDACTED] of Food Assistance Program (FAP) benefits between April 1, 2009 and January 31, 2010, which the Department is entitled to recoup.

It is ORDERED that the actions of the Department of Human Services, in this matter, are REVERSED. This reversal does not preclude the Department from reexamining the case and pursuing any correctly calculated over-issuance.

/s/

Gary F. Heisler
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: September 15, 2010

Date Mailed: September 16, 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.

GFH/alc

cc:

[REDACTED]