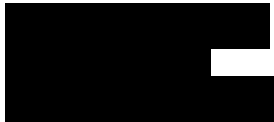


STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

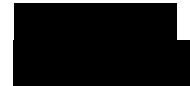
IN THE MATTER OF:



Reg. No: 201052692

Issue No: 3020

Case No:



Hearing Date:

October 6, 2010

Monroe 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 March 29, 2010. After due notice, a telephone hearing was held on Wednesday, October 6, 2010.

ISSUE

Whether the Department of Human Services (Department) properly determined that the Claimant received an overissuance of Food Assistance Program (FAP) benefits?

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 is an ongoing FAP recipient as a group of one.
2. The Claimant receives monthly earned income in the gross monthly amount of \$.
3. The Department notified the Claimant that he had received a FAP overissuance of \$ due to Department error.
4. On September 8, 2010, the Department revised its determination of the Claimant's FAP overissuance, and that it would recoup \$ of overissued FAP benefits.

5. The Department received the Claimant's request for a hearing on March 29, 2010, protesting the recoupment of a FAP overissuance.

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), 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).

For FAP purposes, all earned and unearned income available to the Claimant is countable. Earned income means income received from another person or organization or from self-employment for duties for duties that were performed for compensation or profit. Unearned income means all income that is not earned, including but not limited to funds received from the Family Independence Program (FIP), State Disability Assistance (SDA), Child Development and Care (CDC), Medicaid (MA), Social Security Benefits (RSDI/SSI), Veterans Administration (VA), Unemployment Compensation Benefits (UCB), Adult Medical Program (AMA), alimony, and child support payments. The amount counted may be more than the client actually receives because the gross amount is used prior to any deductions. BEM 500.

Clients must report changes in circumstance that potentially affect eligibility or benefit amount within 10 days of receiving the first payment reflecting the change. BAM 105. Income reporting requirements are limited to the following:

Earned income:

- Starting or stopping employment.
- Changing employers.
- Change in rate of pay.
- Change in work hours of more than five hours per week that is expected to continue for more than one month.

Unearned income:

- Starting or stopping a source of unearned income.
- Change in gross monthly income of more than \$ [REDACTED] since the last reported change.

Other changes:

- Persons in the home.
- Marital status.
- Address and shelter cost changes that result from the move.
- Vehicles.
- Assets.
- Child support expenses paid.
- Health or hospital coverage and premiums.
- Day care needs or providers. BAM 105

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.

Department errors are caused by incorrect actions by the Department. BAM 705. Department error overissuances are not pursued if the estimated overissuance is less than \$ [REDACTED] 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 \$ [REDACTED] unless the client group is active for the overissuance program, or the overissuance is a result of a quality control audit finding. BAM 700.

The Claimant is an ongoing FAP recipient as a group of one. The Claimant receives monthly earned income in the gross monthly amount of \$ [REDACTED]. The Department reduces this amount by the a 20% earned income deduction and the \$ [REDACTED] standard deduction to determine the Claimant's adjusted gross income of \$ [REDACTED]. The Claimant has no monthly shelter expenses. A excess shelter deduction of \$ [REDACTED] was determined by taking the \$ [REDACTED] heat and utility deduction and subtracting half of the Claimant's adjusted gross income.

The Claimant's net income of \$ [REDACTED] was determined by subtracting the excess shelter deduction from his adjusted gross income. A claimant with a group size of one and a net income of \$ [REDACTED] is entitled to a FAP allotment of \$ [REDACTED] which is the amount of FAP benefits granted to the Claimant. RFT 260.

Due to Department error, income that the Claimant had reported was not used to determine his monthly FAP allotment from October 1, 2009, through April 30, 2010. Since the Claimant's income was not used to determine his monthly FAP allotment, the Claimant received benefits that he was not entitled to receive.

On September 8, 2010, the Department discovered that in addition to income, the Department had not factored the heat and utility expense deduction that the Claimant was eligible to claim. An expense deduction would not have any effect on a FAP recipient with no income, but failing to include this deduction in the Department's recoupment calculations incorrectly increases the FAP overissuance. The Department completed additional FAP budgets for each month from October 1, 2009, through April 30, 2010, and revised its overissuance determination to \$ [REDACTED].

The Claimant argued that he fulfilled his duty to the Department to report his income. The Claimant testified that he notified the Department when he suspected that he was receiving an incorrect FAP allotment. The Claimant testified that he was advised by a Department caseworker that he should spend all of his FAP allotment regardless of whether he was entitled to receive it.

Regardless of whether the Claimant received poor advice from a caseworker, the Department is obligated to recoup overissuances of FAP benefits that they discover. Although the Claimant reported his income, he received FAP benefits that he was not entitled to receive because the Department failed to include this income in its FAP eligibility determinations.

Based on the evidence and testimony available during the hearing, the Department has established that the Claimant received a \$ [REDACTED] FAP overissuance, which the Department is required to recoup.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department has established that the Claimant received a \$ [REDACTED] FAP overissuance, which the Department is required to recoup.

The Department's recoupment of the \$ [REDACTED] FAP overissuance is AFFIRMED. It is SO ORDERED.

_____/s/

Kevin

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

Date Signed: October 13, 2010

Date Mailed: October 14, 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/alc

cc:

