

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.: 2010-55100
Issue No.: 3020
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: November 4, 2010
Oakland County DHS (2)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 November 4, 2010. The claimant appeared and testified. [REDACTED], of [REDACTED] also appeared as a witness for the Claimant. [REDACTED], Supervisor appeared on behalf of the Department.

ISSUE

1. Whether the Department is entitled to recoup an over issuance of Food Assistance benefits received by the Claimant as a result of an agency error?
2. Is the Department's computation of the Claimant FAP allotment correct?

FINDINGS OF FACT

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

1. During 2009, the Claimant received \$200 per month in FAP benefits. The FAP budget which calculated these benefits did not include the Claimant's unearned RSDI income.
2. On August 1, 2009, the Claimant's FAP budget was recomputed and the Department included in the budget \$885 in RSDI received by the Claimant from Social Security.
3. On August 1, 2009, the Claimant's FAP benefits were reduced to \$98 per month. The Claimant's FAP benefits were decreased as a result of the

redetermination when the Department began to include the Claimant's RSDI income in her FAP budget as unearned income.

4. Any miscalculation of the Claimant's FAP benefits was due to Agency Error as the Department did not include the Claimant's RSDI income when computing her FAP budget.
5. The Claimant currently receives \$112 per month in FAP benefits.
6. The Claimant reported to the Department that she was receiving RSDI when she began receiving RSDI benefits.
7. The FAP budget prepared by the Department in August 2009 finding the Claimant was entitled to \$98 in FAP benefits is correct. The budget includes the Claimant's rent in the amount of \$236. RSDI unearned income of \$885. A heating utility credit of \$550 and a standard deduction for one person group of \$135 as calculated in August 2009. Exhibits 1 and 2.
8. The numbers utilized by the Department to calculate the August 2009 FAP budget regarding RSDI income and rent were confirmed by the Claimant at the hearing.
9. The Claimant is an SDV group of one person as the Claimant is disabled.
10. At the hearing, the Department said there was no recoupment of benefits after checking in the Bridges system.
11. The Claimant has ongoing recurring medical expenses which have not been included in her FAP benefit calculation because they have not been reported.
12. The Claimant's FAP budget dated August 1, 2009 as calculated by the Department is correct.
13. The Claimant requested a hearing regarding the Department's recoupment of her FAP benefits based on agency error on June 15, 2010, which was received by the Department on June 17, 2010. On June 16, 2010 the Claimant requested a hearing regarding her food assistance and contesting the amount of her current FAP benefits which hearing request was received by the Department September 22, 2010.

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 (formerly known as the Family Independence Agency) administers the FAP program pursuant to CML 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 Bridges Reference Manual (BRM).

Food Assistance Allotment

The Department properly calculated the Claimant's FAP benefits when it finally included the correct amount of RSDI received by the Claimant in the FAP budget of August 1, 2009. All of the numbers for income, rent, utility credit and standard deduction are correct and RSDI income and rent were confirmed by the Claimant at the hearing. Thus it is found that the Department properly determined the Claimant's FAP benefits. Exhibits 1 and 2. The Claimant is encouraged to report any ongoing recurring medical expenses which she incurs and to report same to the Department for inclusion in the calculation of the Claimant's FAP benefits.

Recoupment

When a client group receives more benefits than they are entitled to receive, DHS must attempt to recoup the over issuance (OI). BAM 700, p. 1. DHS must inform clients of their reporting responsibilities and prevent Oise by following BAM 105 requirements informing the client of the requirement to promptly notify DHS of all changes in circumstances within 10 days. BAM 700, PAM 105. Incorrect, late reported or omitted information causing an OI can result in cash repayment or benefit reduction. In this case of the Department admitted Agency error and that the over issuance occurred through no fault of the claimant. At the hearing the Department indicated that there was no recoupment by the Department after searching the Bridges system. Given this representation by the Department it is found that the recoupment issue must be dismissed as no recoupment was undertaken or sought by the Department.

DECISION AND ORDER

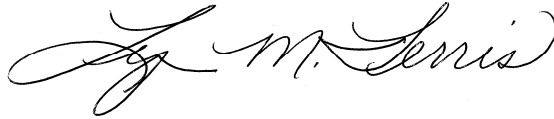
The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department correctly determined the Claimant's FAP allotment and therefore the Department's decision in that regard is AFFIRMED.

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The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department's recoupment must be DISMISSED.

Accordingly, it is ORDERED:

1. The Department's calculation of the Claimant's FAP benefits is AFFIRMED.
2. The issue regarding recoupment is hereby DISMISSED.



Lynn M. Ferris
Administrative Law Judge
For Ismael Ahmed, Director
Department of Human Services

Date Signed: 11/29/2010

Date Mailed: 11/29/2010

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 of the rehearing decision.

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