

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF: [REDACTED],
Claimant

Reg. No: 2010-7311
Issue No: 3020
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
February 11, 2010
Berrien County DHS

ADMINISTRATIVE LAW JUDGE: Ivona Rairigh

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 telephone hearing was held on February 11, 2010. Claimant personally appeared and testified.

ISSUE

Did the department properly determine that the claimant received a Food Assistance Program (FAP) overissuance due to departmental error, and that the department is required to recoup such overissuance?

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 a FAP recipient when the department conducted a review of her case and determined that the member of her FAP group was receiving a child support deduction for child support he was no longer paying.

2. Department computed a new FAP budget removing the child support deduction, and this budget resulted in excess income for FAP.
3. Department has also indicated that the claimant received a FAP overissuance due to the child support deduction not being removed from her case in a timely manner.
4. Claimant requested a hearing on December 2, 2009.

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).

Claimant's FAP issue was addressed in a hearing held on this same date and she agreed that the department's latest FAP budget is correct. Claimant however is in disagreement that she would have to repay any FAP overissuance that occurred as a result of the department's error, namely failure to remove child support expenses from the FAP budget in a timely manner.

Departmental policy states:

BENEFIT OVERISSUANCES

DEPARTMENT POLICY

All Programs

When a client group receives more benefits than they are entitled to receive, DHS must attempt to recoup the overissuance (OI). This item explains OI types and standard of promptness. BAM, Item 700, p. 1.

OVERISSUANCE TYPES

Department Error

All Programs

A department error OI is caused by incorrect action (including delayed or no action) by DHS staff or department processes. Some examples are:

- . Available information was not used or was used incorrectly
- . Policy was misapplied
- . Action by local or central office staff was delayed
- . Computer or machine errors occurred
- . Information was not shared between department divisions (services staff, Work First agencies, etc.)
- . Data exchange reports were not acted upon timely (Wage Match, New Hires, BENDEX, etc.)

If unable to identify the type of OI, record it as a department error. BAM 700.

Bridges Recoupment Interim Bulletin, BPB 2010-007, regarding benefit overissuances, states that department error overissuance threshold was lowered to \$125 for all programs with a retroactive date of August 1, 2008. All department errors with overissuance of \$125 or more will be recouped. BAM 700. Hearing testimony indicates that the claimant's FAP overissuance is over \$200, and department is therefore required to recoup it. However, it was explained to the claimant that she is not required to repay the entire amount at once, and that the department will notify her of various ways in which she can make payments or that the recoupment amount can be collected. Claimant appeared to appreciate this explanation and the knowledge that she would not have to repay a lump sum her family may not be able to afford at this time or in the near future.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department properly determined that the claimant received an overissuance of FAP benefits that the department is required to recoup.

Accordingly, department's action is AFFIRMED, and it is SO ORDERED.

/s/ _____
Ivona Rairigh
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: April 13, 2010

Date Mailed: April 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.

IR/om

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