

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: 2010-8504
Issue No: 3052
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
February 17, 2010
Ottawa 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 February 17, 2010. Claimant appeared and testified.

ISSUE

Was Claimant over-issued \$1,516 of Food Assistance Program (FAP) benefits between October 1, 2008 and March 31, 2009, which the Department of Human Services 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) Claimant was an ongoing recipient of Food Assistance Program (FAP) benefits.
- (2) In August, 2008 Claimant submitted a Semi-Annual Contact Report (DHS-1046) which showed income for the benefits group as Unemployment Compensation Benefits

(UCB) for Claimant's husband and variable Supplemental Security Income (SSI) for one of her children.

(3) On October 16, 2008, the Department ran a financial eligibility budget and determined that Claimant's benefit group was eligible for \$516 in Food Assistance Program (FAP) each month.

(4) In March, 2009 the Department determined that the amount of Supplemental Security Income (SSI) used in the financial eligibility budget was too low. An over-issuance referral was made on the Food Assistance Program (FAP) case.

(5) On September 11, 2009, Claimant was sent a Notice of Over-Issuance which stated there had been a \$1,516 over-issuance of Food Assistance Program (FAP) benefits between October 1, 2008 and March 31, 2009.

(6) On September 21, 2009, 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).

Department policy provides the following guidance for case workers. The Department's policies are available on the internet through the Department's website.

PAM 705 AGENCY ERROR OVERISSUANCES

DEPARTMENT POLICY

All Programs

Recoupment policies and procedures vary by program and overissuance (OI) type. This item explains agency error OI processing and establishment. [PAM 700](#) explains OI discovery, OI types and standards of promptness. [PAM 715](#) explains client error, and [PAM 720](#) explains Intentional Program Violations.

Definition

All Programs

An **agency error** OI is caused by incorrect actions (including delayed or no action) by DHS or DIT 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 an agency error.

AGENCY ERROR EXCEPTIONS

FIP, SDA, CDC and FAP

Agency error OIs are not pursued if the estimated OI amount is less than \$500 per program.

In this case, Claimant could not specifically remember the amounts of her husband's income during the over-issuance period, nor the exact amount of her son's Supplemental Security Income (SSI) each month. The Department submitted documentation showing the amount of each, for each month of the over-issuance period. The over-issuance budgets were

checked and found to be accurate. The total amount of Food Assistance Program (FAP) over-issuance during the over-issuance period is \$1,516.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides Claimant was over-issued \$1,516 of Food Assistance Program (FAP) benefits between October 1, 2008 and March 31, 2009 due to agency error. The Department of Human Services is entitled to recoup the entire over-issuance.

It is ORDERED that the actions of the Department of Human Services, in this matter, are UPHELD.

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

Date Signed: March 2, 2010

Date Mailed: March 10, 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/ [REDACTED]

cc: [REDACTED]