

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: 2010-8713

Issue No: 3020

Case No:

Load No:

Hearing Date:

January 12, 2010

Genesee County DHS

ADMINISTRATIVE LAW JUDGE: Steven M. Brown

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 conducted from [REDACTED] on January 12, 2010.

ISSUE

Whether the Department made an error in computing Food Assistance Program (FAP) benefits which resulted in an overissuance to Claimant?

FINDINGS OF FACT

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

(1) On September 14, 2009, the Department received correspondence from Claimant which informed it that Claimant's granddaughter was no longer living with her. Claimant's letter states that she had been leaving messages with the Department in this regard for two months. (Exhibit 1)

(2) The Department used a July date as the date Claimant's granddaughter left the group based on this information and a follow up discussion with Claimant.

(3) The Department did not offer the Notice of Overissuance or any supporting documentation at or after hearing, therefore, the amount of the alleged overissuance and/or how it was calculated is a mystery.

(4) The documents offered at hearing included the Claimant's letter to the Department, a 11/03/09 Notice of Case Action for the reduction in FAP benefits effective 12/01/09, a Bridges screen regarding Claimant's FIP case, the Notice of Hearing and the Hearing Summary (which does not contain any overissuance amount). (Exhibits 1-5)

(5) The documents offered after hearing included a Bridges Eligibility Summary and documentation regarding the threshold for recoupment. (Exhibits 7-8)

(6) On November 10, 2009, the Department received Claimant's hearing request, DHS-4358-D regarding the alleged "overissuance for the period of 08/01/2009 to 11/30/2009". (Exhibit 6)

#### 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. Departmental policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Bridges Reference Manual (BRM).

An overissuance is the amount of benefits issued to the client group or CDC provider in excess of what they were eligible to receive. BAM 705, p.5 The amount of the overissuance is the amount of benefits the group or provider actually received minus the amount the group was eligible to receive. BAM 720, p.6 When a client group receives more benefits than they are entitled to receive, DHS must attempt to recoup the overissuance (OI). BAM, p.1

Agency errors are caused by incorrect actions by DHS. BAM 705, p.1 Agency error overissuances are not pursued if the estimated overissuance is less than [REDACTED] per program. BAM 700, p.6 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 QC audit finding. BAM 700, p. 4, 5

In the instant case, the Department has failed to meet its burden of proof in several different ways including the amount of the alleged overissuance, how the alleged overissuance was calculated and whether the amount meets the threshold for recoupment. With that said, I do not find that the Department established that if acted in accordance with policy in requesting repayment of an alleged overissuance of FAP benefits to Claimant.

#### DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, does not find that the Department acted in accordance with policy in requesting repayment of an alleged overissuance of FAP benefits to Claimant.

Accordingly, the Department's FAP eligibility determination is REVERSED, it is SO ORDERED. The Department shall cease and desist from any further recoupment efforts and issue Claimant supplemental benefits for any benefits already recouped, if any.

/S/  
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Steven M. Brown  
Administrative Law Judge  
for Ismael Ahmed, Director  
Department of Human Services

Date Signed: January 14, 2010

Date Mailed: January 15, 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.

SMB/db

cc:

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