

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.: 2011-4285
Issue No.: 3020/3052
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: December 2, 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 December 2, 2010. The claimant appeared and testified. [REDACTED], Case Manager appeared behalf of the Department.

ISSUE

Whether the Department is entitled to a recoupment for an overissuance to Claimant's FAP benefits in the amount of \$1722.00?

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 and received a Notice of Overissuance dated January 1, 2010, wherein the Department sought recoupment of \$1722 for the period September 1, 2009 through November 30, 2009. Exhibit 1
2. At the hearing, the Department acknowledged that the recoupment was in error and that it was not entitled to recoupment. Exhibit 2 and Exhibit 3.
3. The Department has continued to recoup monies from the Claimant's FAP benefits during the period April 2010 through October 2010. Benefits have been recouped as follows: April 2010, \$69; May 2010, \$69; June 2010, \$69; July 2010, \$105; August 2010, \$105; September 2010, \$0; October 2010, \$98. Exhibit 4

4. The department could not verify whether the current amounts being recouped from the claimant's FAP benefits were from a prior recoupment of benefits or as a result of the current recoupment which was acknowledged to be in error.
5. The Claimant timely requested a hearing and further requested to have her current FAP benefits continue without change while the hearing was pending. Exhibit 3 (Request for Hearing 2/8/10)
6. The Claimant requested a hearing on February 8, 2010 protesting the recoupment from her FAP benefits as a result of a Notice of Overissuance dated January 1, 2010. The Department did not date stamp the hearing request and could not say when it received the hearing request and therefore it is determined to be filed and received on or about February 8, 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).

In this case, the Department originally sought recoupment of an over-issuance of FAP benefits in the amount of \$1722 which it now concedes is not correct and that it is not entitled to recoup the over issuance.

The department has continued to recoup monies from the claimant's FAP benefits for the period April 2010 through September 2010 in varying amounts as further set forth in the findings of fact and confirmed by the department in Exhibit 4, (Benefits Summary Inquiry). It could not be determined at the hearing whether these recoupment amounts were from a prior recoupment of benefits or were related to the current over issuance and recoupment which the department now concedes is in error. The department could not explain why the error had not yet been corrected other than to indicate that the recoupment specialist assigned to the case had not corrected the problem.

Based on these facts and circumstances the department has no excuse to have not corrected the problem which has existed in this matter since January 2010 when notice of over issuance was issued in error. Based on these facts and the record as a whole

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the department's request for an over issuance and attempt at recoupment is reversed as it by the department's own admission in error.

Accordingly, the Department's Overissuance and recoupment action is REVERSED.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department did not substantiate by the evidence it presented that an over issuance of FAP benefits occurred and thus is not entitled to a recoupment of the Claimant's FAP benefits.

It is, therefore, ORDERED that the OI and recoupment is REVERSED.

1. The department is ordered within 10 days of the receipt of this order to correct the claimant's record in and Bridges system and to delete the over issuance established by the Notice of Over Issuance dated January 29, 2010 and charged against the claimant's FAP benefits in the amount of \$1722.
2. The department is further Ordered to thoroughly review the claimant's case record and determine if any of the previously recouped amounts recouped from the Claimant's FAP benefits since January 2010 through October 2010, as set forth in Exhibit 4, (paragraph 3 of the Findings of Facts), have resulted from its attempts to collect a recoupment in the amount of \$1722 which it concedes is in error.
3. If the department determines that it has improperly recouped monies from the claimant's FAP benefits as a result of its failure to correct the over issuance in the amount of \$1722 the department is ordered to supplement the claimant for any FAP benefits she was otherwise entitled to receive had the funds not been improperly recouped.

4. If the department after review of its records for the Claimant determines that the funds that were previously recouped during the period January 2010 through October 2010 were a result of a prior and different recoupment action, then the Department shall advise the claimant in writing with regard to the result of their review of the records and specifically advise claimant of the specific recoupment that it is recouping from her FAP benefits.



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

Date Signed: 12/6/2010

Date Mailed: 12/6/2010

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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