

STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

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████████████████████
████████████████████

Reg. No: 201143098
Issue No: 3020
Case No: ██████████
Hearing Date:
August 10, 2010
Calhoun County DHS

ADMINISTRATIVE LAW JUDGE: Kevin Scully

HEARING DECISION

This matter is before the undersigned Administrative Law Judge by authority of MCL 400.9 and MCL 400.37. Claimant's request for a hearing was received on July 13, 2011. After due notice, a telephone hearing was held on Wednesday, August 10, 2011.

ISSUE

Whether the Department of Human Services (Department) properly determined that the Claimant received an overissuance of Food Assistance Program (FAP) benefits?

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 was a Food Assistance Program (FAP) recipient from November 1, 2008, through October 31, 2009.
2. The Claimant received monthly earned income for home help while receiving Food Assistance Program (FAP) benefits.
3. Group member ██████. received monthly earned income for home help while receiving Food Assistance Program (FAP) benefits.
4. The Claimant receives monthly earned income from ██████ while receiving Food Assistance Program (FAP) benefits.

5. On November 18, 2008, the Claimant submitted an application for assistance and reported her earned income.
6. On October 2, 2009, the Claimant submitted a Redetermination form and reported her earned income.
7. On March 11, 2009, the Claimant submitted a Semi-Annual Contact form and reported her earned income.
8. On October 13, 2009, the Claimant submitted a State Emergency Relief (SER) application and reported her earned income on the application.
9. On November 6, 2009, the Claimant submitted an application for benefits and reported her earned income on the application.
10. Due to Department error, the Department failed to include all of the Claimant's earned income that she had reported in its Food Assistance Program (FAP) eligibility determination from November 1, 2008, through October 31, 2009.
11. On July 1, 2011, the Department notified the Claimant that she had received an overissuance of Food Assistance Program (FAP) benefits totaling \$2,564.
12. The Department received the Claimant's request for a hearing on July 13, 2011, protesting the Department's recoupment of Food Assistance Program (FAP) overissuance based on Department error.

CONCLUSIONS OF LAW

The Food Assistance Program (FAP) (formerly known as the Food Stamp 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), Reference Table Manual (RFT), and the Bridges Reference Manual (BRM).

Clients must report changes in circumstance that potentially affect eligibility or benefit amount within 10 days of receiving the first payment reflecting the change. BAM 105. Income reporting requirements are limited to the following:

- Earned income:
 - Starting or stopping employment.
 - Changing employers.
 - Change in rate of pay.
 - Change in work hours of more than five hours per week that is expected to continue for more than one month.

- Unearned income:
 - Starting or stopping a source of unearned income.
 - Change in gross monthly income of more than \$50 since the last reported change.

- Other changes:
 - Persons in the home.
 - Marital status.
 - Address and shelter cost changes that result from the move.
 - Vehicles.
 - Assets.
 - Child support expenses paid.
 - Health or hospital coverage and premiums.
 - Day care needs or providers. BAM 105.

All earned and unearned income available to the Claimant is countable. Earned income means income received from another person or organization or from self-employment for duties that were performed for compensation or profit. Unearned income means all income that is not earned, including but not limited to funds received from the Family Independence Program (FIP), State Disability Assistance (SDA), Child Development and Care (CDC), Medicaid (MA), Social Security Benefits (RSDI/SSI), Veterans Administration (VA), Unemployment Compensation Benefits (UCB), Adult Medical Program (AMA), alimony, and child support payments. The amount counted may be more than the client actually receives because the gross amount is used prior to any deductions. BEM 500.

An overissuance is the amount of benefits issued to the client group in excess of what they were eligible to receive. BAM 705. The amount of the overissuance is the amount of benefits the group actually received minus the amount the group was eligible to receive. BAM 720. When a client group receives more benefits than they are entitled to receive, the Department must attempt to recoup the overissuance. BAM 700.

Department errors are caused by incorrect actions by the Department. BAM 705. Department error overissuances are not pursued if the estimated overissuance is less than \$125 per program. BAM 700. 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 \$125 unless the client group is active for the overissuance program, or the overissuance is a result of a quality control audit finding. BAM 700.

In this case, the Claimant was a Food Assistance Program (FAP) recipient from November 1, 2008, through October 31, 2009. The Claimant had reported her earned income to the Department on several occasions during this period. The Claimant received monthly earned income for home help and from [REDACTED]. Group member [REDACTED] also received monthly earned income for home help. Due to Department error, the

Department failed to include all of the income received by the Claimant's benefit group during this period.

The Claimant received Food Assistance Program (FAP) benefits totaling \$6,836 during the period of November 1, 2008, through October 31, 2009. If the Department had properly entered the income the Claimant had reported into its eligibility determinations, the Claimant would have been eligible for Food Assistance Program (FAP) benefits totaling \$4,272. As a result of the Department's failure to properly account for the Claimant's earned income, the Claimant received a Food Assistance Program (FAP) overissuance of \$2,564.

The Claimant argued that she should not be held responsible for the entire amount of Food Assistance Program (FAP) overissuance because she had fulfilled her duty to report her income. The Claimant testified that she had questioned her caseworker about whether her earned income was being properly accounted for in her Food Assistance Program (FAP) budget, and was told that her income had been properly recorded. The Claimant testified that she was unaware that she had received an overissuance of Food Assistance Program (FAP) benefits.

This Administrative Law Judge finds that the Claimant received an overissuance of Food Assistance Program (FAP) benefits greater than \$125 that cause by Department error. Based on the evidence and testimony available during the hearing, the Department has established that it is entitled to recoupment of the overissuance of Food Assistance Program (FAP) that the Claimant received totaling \$2,564.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department has established that the Respondent received a \$2,564 Food Assistance Program (FAP) overissuance due to Department error.

The Department's recoupment of overissued Food Assistance Program (FAP) benefits is UPHELD. The Claimant is ORDERED to reimburse the Department for the overissuance,



Kevin Scully
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: August 15, 2011

Date Mailed: August 16, 2011

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.

KS/tg

cc:

