

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]
[REDACTED]
[REDACTED]

Reg. No: 20114601
Issue No: 1030, 3052
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
December 9, 2010
Genesee 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 December 9, 2010. Claimant appeared and testified.

ISSUE

Did the Department of Human Services over-issue Claimant Family Independence Program (FIP) and Food Assistance Program (FAP) benefits during the period between December 1, 2009 and August 31, 2010 which the Department 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) On October 12, 2010 Claimant was sent a Notice of Over-Issuance (DHS-4358-A). The notice stated that Claimant had been over-issued Family Independence Program (FIP) and Food Assistance Program (FAP) benefits between December 1, 2009 and August 31, 2010.
- (2) On October 25, 2010 Claimant submitted a timely request for hearing.
- (3) The evidence submitted by the Department for this hearing was insufficient to establish a specific over-issuance period or amount.

CONCLUSIONS OF LAW

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 8 USC 601, *et seq.* The Department of Human Services (DHS or department) administers the FIP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3101-3131. The FIP program replaced the Aid to Dependent Children (ADC) program effective October 1, 1996. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

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).

In this case the evidence submitted by the Department for this hearing was insufficient to establish a specific over-issuance period or amount. For that reason the Department cannot be upheld. This decision is not a finding that there was no over-issuance, only that the Department has not met their initial evidentiary burden. This decision does not prevent the Department from reviewing the situation and re-issuing an over-issuance if one exists.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the Department has not established that Claimant was over-issued Family Independence Program (FIP) and Food Assistance Program (FAP) benefits during the period between December 1, 2009 and August 31, 2010 which the Department is entitled to recoup.

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

/s/ _____

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

Date Signed: December 29, 2010

Date Mailed: December 29, 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/tg

cc:

