

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: 2011-7143
Issue No: 3052
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
December 14, 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 14, 2010. Claimant appeared and testified.

ISSUE

Did the Department of Human Services over-issue Claimant \$544 in Food Assistance Program (FAP) benefits between January 1, 2010 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) Claimant was an ongoing recipient of Food Assistance Program (FAP) benefits.
- (2) On October 4, 2010 Claimant was sent a Notice of Case Action (DHS-1605) showing a change in her Food Assistance Program (FAP) benefit amount.
- (3) On October 28, 2010 Claimant was sent a Notice of Over-Issuance for the period of January 1, 2010 through August 31, 2010.
- (4) On November 5, 2010 Claimant submitted a timely 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).

In this case there was no evidence submitted showing calculation of the proper amount of Food Assistance Program (FAP) benefits Claimant was eligible for in the individual months of the over-issuance period. Neither was there evidence submitted showing the actual amount of Food Assistance Program (FAP) benefits Claimant received in the individual months of the over-issuance period. The evidence in this record is insufficient to establish that Claimant was over-issued Food Assistance Program (FAP) benefits. This Department action cannot be upheld. There is not a finding that Claimant was not over-issued Food Assistance Program (FAP) benefits, only that the Department has failed to present sufficient evidence to validate the proposed action. This decision does not prevent the Department from reviewing the period and issuing a new notice of over-issuance if one is properly determined.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the Department of Human Services has failed to present sufficient evidence to establish that Claimant was over-issued Food Assistance Program (FAP) benefits. This Department action cannot be upheld.

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

It is further ORDERED that Claimant be supplemented any Food Assistance Program (FAP) benefits she was otherwise eligible for but did not receive as a result of this proposed Departmental action.

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

Date Signed: December 28, 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:

