

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

IN THE MATTER OF:

[REDACTED]

Reg
Issue
Case
Hearing

No: 2011 20967
No: 3000, 3052
No: [REDACTED]
Date:
March 17, 2011
Wayne County DHS (49)

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 received by the Department on July 2, 2009. After due notice, a telephone hearing was conducted from Detroit, Michigan on March 17, 2011. The Claimant appeared and testified. The Department's representative [REDACTED] testified on behalf of the Department.

ISSUE

Whether the Claimant's request for hearing regarding the Treasury Office's Program Notice dated August 17, 2010 for collection of a Food Assistance over-issuance was timely.

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 acknowledged receiving two separate notices of over-issuance regarding her Food Assistance (FAP) dated March 15, 2010. The Notices provided the Claimant with notice of the amount of the over-

issuances for FAP benefits in the amount of \$273 and \$257, and advised the Claimant of her right to request a hearing and provided a hearing request form. The claimant did not request a hearing regarding the Department's Notices of Over-issuances. Exhibit 1 and 2.

2. The Claimant also was sent two separate Treasury Offset Program Notices dated August 17, 2010, which advised the client that the Department might seek to collect the FAP over-issuance out of any Federal income benefits or tax refund checks she might be receiving. Exhibits 3 and 4.
3. The Claimant requested a hearing regarding the Treasury Offset Program notices on December 28, 2010, as well as the denial of her food assistance application. The hearing request was stamped received by the Department on December 27, 2010. Exhibit 5, Hearing Request.
4. The Claimant's hearing request regarding the Treasury Offset Program Notice was not filed within 90 days of the notice and therefore was not timely.
5. The Claimant is currently receiving FAP benefits and did not wish to pursue her hearing request regarding the denial of Food Assistance benefits at the hearing.
6. The Claimant is currently subject to an Administrative Recoupment. The Department is recouping the amount of \$36 from the Claimant's FAP benefits as of January 1, 2011, to satisfy the FAP over-issuances.

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, after receiving two Notices of Over-issuances with the hearing request forms attached and two Treasury Offset Program Notices advising the Claimant that the Department was seeking to collect a debt due to over-issuance of FAP benefits, and that she could request a review of the action, the Claimant took no action until December 27, 2010 when the Department first received the Claimant's hearing request.

The hearing request filed by the Claimant on December 27, 2010, was untimely. The Treasury Offset Program Notices were dated August 17, 2010, and thus the hearing request had to be filed no later than November 15, 2010, but was not filed until December 27, 2010, and therefore it was late. In accordance with BAM 600 the hearing request was untimely and the hearing request must be dismissed.

BAM 600 provides:

The client or authorized hearing representative has 90 calendar days from the date of the written notice of case action to request a hearing. The request must be received anywhere in DHS within the 90 days. Id page 4.

Based upon these facts and circumstances it is found that the Claimant's hearing request was untimely and must be dismissed.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, determines that the July 2, 2009 hearing request was untimely and must be DISMISSED. At the hearing the Claimant agreed on the record that she no longer wished to pursue her request for hearing regarding the denial of her Food Assistance Benefits as she is currently receiving Food Assistance benefits and therefore her Request for Hearing on this issue is also DISMISSED.

Administrative
for
Department



Lynn M. Ferris
Law Judge
Maura Corrigan, Director
of Human Services

Date Signed: 03/30/11

Date Mailed: 03/30/11

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.

LMF/dj

cc:

