

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: 20113744

Issue No: 3052

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

November 30, 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 November 30, 2010. Claimant appeared and testified.

**ISSUE**

Did the Department of Human Services over-issue Claimant \$608 of Food Assistance Program (FAP) benefits between November 1, 2007 and December 31, 2007 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 August 30, 2007 Claimant reported that she went back to work.
3. On January 3, 2008 the Department caseworker entered Claimant's earned income into her financial eligibility budget.
4. On October 12, 2010 Claimant was sent a Notice of Over-Issuance (DHS-4358-A) stating she had been overissued [REDACTED] of Food Assistance Program (FAP) benefits during November and December 2007.

5. On October 19, 2010 Claimant submitted a 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 Claimant raised no issues about her income or expenses during the alleged overissuance period. This Administrative Law Judge checked the income and Food Assistance Program (FAP) financial eligibility budgets submitted by the Department and found Claimant's income, expenses and authorized benefits are correct.

Claimant raised the issues that it was not her mistake, the Department took three years to bring it up, and it is not fair that she should have to pay the money back.

Department policy provides the following guidance for case workers. The Department's policies are available on the internet through the Department's website.

#### **BAM 705 AGENCY ERROR OVERISSUANCES**

##### **DEPARTMENT POLICY**

##### **All Programs**

Recoupment policies and procedures vary by program and overissuance (OI) type. This item explains agency error OI processing and establishment.

BAM 700 explains OI discovery, OI types and standards of promptness.

BAM 715 explains client error, and BAM 720 explains Intentional Program Violations.

##### **Definition**

##### **All Programs**

An **agency error** OI is caused by incorrect actions (including delayed or no action) by the Department of Human Services (DHS) or the Department of Information and Technology staff or department processes.

Some examples are:

- Available information was not used or was used incorrectly.
- Policy was misapplied.
- Action by local or central office staff was delayed.
- Computer errors occurred.
- Information was not shared between department division (services staff, Work First! agencies, etc.).
- Data exchange reports were not acted upon timely (Wage Match, New Hires, BENDEX, etc.).

If unable to identify the type of OI, record it as an agency error.

### **AGENCY ERROR EXCEPTIONS**

#### **FIP, SDA, CDC and FAP**

Agency error OIs are not pursued if the estimated OI amount is less than \$125 per program.

#### **FIP, SDA and FAP Only**

The agency error threshold was lowered to \$125 from \$500 with a retroactive date of August 1, 2008. If the agency error includes some prior months to August 2008 then the \$500 threshold applies. If all months of the error fall after August 2008, the \$125 threshold applies.

### **DECISION AND ORDER**

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the Department of Human Services overissued Claimant [REDACTED] of Food Assistance Program (FAP) benefits between November 1, 2007 and December 31, 2007 which the Department is entitled to recoup.

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

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

Date Signed: December 2, 2010

Date Mailed: December 2, 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/vc

cc:

