

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201242366
Issue No: 3020
Case No: [REDACTED]
Hearing Date: April 26, 2012
Genesee County DHS #6

ADMINISTRATIVE LAW JUDGE: Christopher S. Saunders

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 telephone hearing was held on April 26, 2012. The respondent personally appeared and provided testimony.

ISSUE

Did the Respondent receive an overissuance of Food Assistance Program (FAP) benefits that 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. Respondent was an active FAP recipient during the months of July 2010, August 2010, August 2011, and September 2011.
2. Respondent has been and currently still is an active recipient of FAP benefits.
3. The claimant received FAP benefits in the amount of [REDACTED] for the month of July 2010.
4. Based on the claimant's income for the month of July 2010, the claimant should have received [REDACTED] in FAP benefits.
5. The claimant received [REDACTED] in FAP benefits for the month of August 2010.

6. Based on the claimant's income for the month of August 2010, the claimant should have received [REDACTED] in FAP benefits.
7. The department contends that the claimant's FAP case should have been closed in August 2011 for failure to cooperate with the verification process but that his case was not closed until October 2011.
8. The Respondent's FAP case was active at the time of the Administrative Hearing.

CONCLUSIONS OF LAW

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied. MAC R 400.903(1).

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The department will provide an administrative hearing to review the decision and determine the appropriateness. BAM 600.

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).

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 over issuance. 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 over issuance program, or the overissuance is a result of a quality control audit finding. BAM 700.

Department errors are caused by incorrect actions 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 divisions (services staff, Work First! agencies, etc.) or data exchange reports were not acted upon timely (Wage Match, New Hires, BENDEX, etc.). If the department is unable to identify the type of overissuance, it is recorded as a department error. BAM 705. Department error overissuances are not pursued if the estimated overissuance is less than \$125 per program. BAM 700.

In the case at hand, the department claims three separate instances of overissuance. In the first instance, the department contends that the claimant did not notify the department that he had begun employment and that he was receiving wages from that employment. In turn, the claimant received an overissuance of FAP benefits because the claimant's income was not properly accounted for in his FAP budget. The claimant testified that he informed the department as soon as he started work that he was in fact working. At that time, the claimant was participating in the WF/JET program. He testified that he also thought that if the WF/JET program knew that he was employed, then the department would be aware of that fact. The Administrative Law Judge finds the claimant's testimony that he informed the department of his employment credible. However, the fact remains that the claimant did receive an overissuance of FAP benefits. In the month of July 2010, the claimant received [REDACTED] in FAP benefits, if his income would have been budgeted, he only would have been eligible for [REDACTED]. Therefore, the claimant received an overissuance of FAP benefits in the amount of [REDACTED] for the month of July 2010 due to an agency error.

In the second instance, the department contends that the claimant's income was not budgeted for the month of August 2010. The department states that it was then aware of the claimant's income but that the income was not properly budgeted for the claimant's FAP benefits. The claimant received [REDACTED] in FAP for the month of August 2010, if his income had been budgeted her would have been eligible for [REDACTED] in FAP benefits. Therefore, the claimant received an overissuance of FAP benefits in the amount of [REDACTED] for the month of August 2010 due to an agency error.

In the third instance, the department asserts that the claimant's FAP case should have been closed in August 2011 due to his failure to submit requested verifications. The department was requesting a verification of employment as the claimant stated that he was no longer working. The claimant stated that the requested form was faxed over to the human resources department at his former place of employment for completion. Additionally, Department Exhibit 17 (the verification of employment form) shows the claimant's former employer as the addressee. The Administrative Law Judge credits the claimant's testimony that the form was submitted to his former employer for completion. It also appears, absent any further explanation, that the verification of employment form was sent directly to the claimant's former employer. BAM 105 states that eligibility is not to be denied due to the failure of a person outside the group to cooperate with a verification request. BAM 105 page 5. In this case, the failure to cooperate with the verification request was on the part of the claimant's former employer.

Therefore, BAM 105 states that eligibility should not be denied due to the former employer's failure to cooperate. Accordingly, the Administrative Law Judge does not find that the claimant's FAP case should have been closed in August 2011 and therefore did not receive an overissuance of FAP benefits for those months.

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 claimant has an outstanding debt due to two overissuances of FAP benefits but that the department did not establish that the claimant received an overissuance of FAP benefits for the third instance.

Accordingly, the department's actions are hereby **AFFIRMED IN PART AND REVERSED IN PART**.

It is HEREBY ORDERED that

1. The claimant has received an overissuance of FAP benefits in the amount of [REDACTED] for the month of July 2010 due to department error that the department is entitled to recoup. The claimant shall reimburse the department for FAP benefits ineligibly received, and the department shall initiate collection procedures in accordance with department policy.
2. The claimant has received an overissuance of FAP benefits in the amount of [REDACTED] for the month of August 2010 due to department error that the department is entitled to recoup. The claimant shall reimburse the department for FAP benefits ineligibly received, and the department shall initiate collection procedures in accordance with department policy.
3. The claimant did not receive an overissuance of FAP benefits for the months of August and September 2011 in the amount of [REDACTED]. Therefore, the department shall reverse any action taken with respect to this alleged overissuance.

/s/

Christopher S. Saunders
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: May 21, 2012

Date Mailed: May 21, 2012

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.

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