

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

IN THE MATTER OF:

[REDACTED]

Reg. No: [REDACTED]

Issue No: 3020

Case No: [REDACTED]

Hearing Date:

November 30, 2011

[REDACTED]

ADMINISTRATIVE LAW JUDGE: [REDACTED]

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 received on September 8, 2011. After due notice, a telephone hearing was held on November 30, 2011. Claimant appeared via conference call and provided testimony.

ISSUE

Whether the department acted properly in trying to recover an overissuance of Food Assistance Program (FAP) benefits that Claimant received due to department error?

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 a FAP recipient at all times relevant to this matter.
2. Due to an error by the department, the department failed to include Claimant's reported monthly income in determining Claimant's eligibility for FAP benefits. (Department Hearing Summary).
3. As a result of the department's error, Claimant received a [REDACTED] FAP overissuance during the period of July 1, 2007 through April 30, 2008. (Department Exhibits 31-51)
4. On August 17, 2011, the department sent Claimant written notice of the FAP overissuance (DHS-4358-A), requesting that he repay it. The Notice further informed Claimant that his failure to pay the balance of the overissuance would

result in the department's recovery of the balance through administrative recoupment. (Department Hearing Summary)

5. On September 8, 2011, the department received Claimant's hearing request, protesting the department's determination that he must repay the FAP overissuance that he received due to the department's error.

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. BAM 600. The department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. 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 Bridges Reference Manual (BRM).

All earned and unearned income available to the client is countable. Earned income means income received from another person or organization or from self-employment for duties that were performed for compensation or profit. Unearned income means all income that is not earned, including but not limited to funds received from the Family Independence Program (FIP), State Disability Assistance (SDA), Child Development and Care (CDC), Medicaid (MA), Social Security Benefits (RSDI/SSI), Veterans Administration (VA), Unemployment Compensation Benefits (UCB), Adult Medical Program (AMA), alimony, and child support payments. The amount counted may be more than the client actually receives because the gross amount is used prior to any deductions. BEM 500.

The Department determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. Actual income is income that was already received. Prospective income is income not yet received but expected. Prospective budgeting is the best estimate of the client's future income. BEM 505.

All income is converted to a standard monthly amount. If the client is paid weekly, the Department multiplies the average weekly amount by 4.3. If the client is paid every other week, the Department multiplies the average bi-weekly amount by 2.15. BEM 505.

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 overissuance. 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 [REDACTED] 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 [REDACTED] unless the client group is active for the overissuance program, or the overissuance is a result of a quality control audit finding. BAM 700.

In this case, Claimant was an ongoing FAP recipient in 2007 and 2008 and received an overissuance of FAP benefits in the amount of [REDACTED] from July 1, 2007 through April 30, 2008. Specifically, despite Claimant's report of an increase in his household's income, due to department error, this income was not used to determine Claimant's eligibility for FAP benefits, resulting in Respondent receiving a total FAP overissuance of [REDACTED].

Based on the evidence and testimony provided during the hearing, the department has established that Respondent received a [REDACTED] FAP overissuance, which the department is required to recoup.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department established that Respondent received a [REDACTED] FAP overissuance due to department error.

The department's recoupment of overissued FAP benefits is UPHeld. It is SO ORDERED.

/s/ _____
Suzanne D. Sonneborn
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: 11/30/11

Date Mailed: 12/01/11

NOTICE: The Michigan Administrative Hearings System (MAHS) 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. MAHS 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.

SDS/sc

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