

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201322472

Issue No: 3002

[REDACTED]

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

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. After due notice, an in-person hearing was held on [REDACTED]. The Claimant appeared and testified. The Department was represented by [REDACTED] and [REDACTED].

ISSUE

Was the Department correct in determining Claimant's Food Assistance Program benefits?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

1. On [REDACTED], after a cost of living adjustment to Claimant's social security benefits the Department rebudgeted Claimant's FAP benefits and reduced FAP benefits from \$ [REDACTED] per month to \$ [REDACTED].
2. Claimant receives \$ [REDACTED] unearned income from social security benefits, after \$ [REDACTED] are deducted due to a recoupment with the social security administration due to a previous overpayment.
3. Claimant requested a hearing on [REDACTED] contesting the determination of FAP benefits.
4. The only issue Claimant raised at hearing was whether the \$ [REDACTED] deduction for overpayment from his social security benefits should be taken into consideration when determining his FAP benefits.

CONCLUSIONS OF LAW

The Food Assistance Program, 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"), formally known as the Family Independence Agency, administers the FAP program pursuant to MCL 400.10, *et seq* and MAC R 400.3001-3015. Departmental policies are found in the Bridges Administrative Manual ("BAM"), the Bridges Eligibility Manual ("BEM"), and the Program Reference Manual ("PRM").

Reduced Benefits Due to Overpayment Amounts deducted by an issuing agency to recover a previous overpayment or ineligible payment are not part of gross income. These amounts are excluded as income.

Exceptions: The following overpayment amounts **must** be included in gross income:

- Any portion of an overpayment (that is normally countable) if the original payment was excluded income when received.
- Cash assistance recoupment amounts due to IPV are automatically counted for FAP in Bridges.
- SSI amounts recouped due to Intentional Program Violation (IPV) are included in countable gross income for cash assistance programs and FAP.

IPV means there is a finding of fraud or an agreement to repay in lieu of prosecution. Do not exclude recouped SSI when IPV information is volunteered by the SSI recipient or other reliable source.

Do not initiate any contacts to obtain this information.
BEM 500.

In the present case, Claimant receives \$ [REDACTED] gross income from the Social Security Administration. \$ [REDACTED] is deducted due to receipt of a previous overpayment. No evidence was presented by the Department that shows the overpayment resulted from an intentional program violation. Therefore, the gross income amount of \$ [REDACTED] should have been used and not the \$ [REDACTED] amount. BEM 500. Therefore, the Department's determination of FAP benefits is improper and incorrect.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law decides that the Department was incorrect in the determination of FAP benefits, and it is ORDERED that the Department's decision is hereby **REVERSED**. Claimant's FAP benefits shall be rebudgeted back to [REDACTED] using \$ [REDACTED] for his gross income. Any increase in the amount of FAP benefits shall be paid to Claimant in the form of a supplement.

Aaron
Administrative
for
Department

Aaron McClintic

McClintic
Law Judge
Maura Corrigan, Director
of Human Services

Date Signed: 04/22/2013

Date Mailed: 04/22/2013

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.

AM/kl

cc: [REDACTED]