

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2006-23505
Issue No.: 3020
Case No.: [REDACTED]
Hearing Date: August 31, 2011
DHS County: Wayne (82-17)

ADMINISTRATIVE LAW JUDGE: Jan Leventer

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to Michigan Compiled Laws (MCL) 400.9 and 400.37, which govern the administrative hearing and appeal process, and Respondent's request for a hearing. After due notice, a telephone hearing was held on August 31, 2011, in Detroit, MI. Respondent did not appear. [REDACTED], appeared and testified on behalf of the Department of Human Services (DHS).

ISSUE

Whether DHS is entitled to reimbursement from Respondent for overissuances of Food Assistance Program (FAP) benefits?

FINDINGS OF FACT

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

1. On July 7, 2005, Respondent applied for FAP benefits, and DHS approved them.
2. On or about August 3, 2005, Respondent's spouse began employment at [REDACTED].
3. In October 2005, DHS learned of Respondent's employment and failed to act on the available information.
4. DHS erred in failing to include Respondent's spouse's income in the calculation of her FAP benefits for September and October 2005.

5. From September 1, 2005-October 31, 2005, a period of two months, Respondent received FAP benefits she was not entitled to receive.
6. On May 24, 2006, DHS issued a Notice of Overissuance, Department and Client Error Information and Repayment Agreement, and Overissuance Summary to Respondent, stating there were overissuances for a three-month period from August-October 2005. Respondent failed to sign the Repayment Agreement.
7. On July 17, 2006, Respondent filed a Hearing Request for Overissuance or Recoupment Action with DHS.
8. On July 25, 2006, DHS sent Respondent a Corrected Notice of Overissuance, Department and Client Error Information and Repayment Agreement, and Overissuance Summary, regarding overissuances in September and October 2005 only.

CONCLUSIONS OF LAW

FAP was established by the United States Food Stamp Act of 1977 and is implemented by Federal regulations contained in Title 7 of the Code of Federal Regulations. DHS administers FAP pursuant to MCL 400.10 *et seq.* and Michigan Administrative Code Rules 400.3001-3015. DHS' policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables (RFT). These manuals are available online at www.michigan.gov/dhs-manuals.

The DHS manuals contain the policies and procedures DHS officially created for its own use. While the DHS policies and procedures are not laws created by the U.S. Congress or the Michigan Legislature, they constitute legal authority which DHS must follow. The manuals must be consulted in order to see what policies apply in this case. After setting forth what the applicable policies are, an analysis as to how they apply to the facts of this case will be presented.

The events of this case occurred in 2005. At that time, an earlier manual, Program Administrative Manual (PAM), was in effect. PAM is not available online, but the manual section relevant to this case is the same as the current BAM section of the same numbers. www.michigan.gov/dhs-manuals.

PAM 700, "Benefit Overissuances," requires DHS to attempt recoupment of all overissuances, regardless of what caused the overissuance.

BENEFIT OVERISSUANCES

DEPARTMENT POLICY

All Programs

When a client group receives more benefits than they are entitled to receive, DHS must attempt to recoup the overissuance (OI). PAM 700, p. 1.

This policy is applicable in this case, and DHS is clearly required to attempt recoupment. At the hearing, DHS submitted monthly budget calculations of the overissuances for the months in question. After reviewing DHS' calculations, it is found that there is no error in the recoupment amounts specified by DHS.

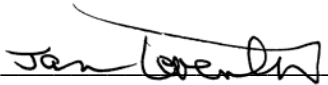
Respondent disputes DHS' recoupment action because she is not at fault in this situation and believes she should not be required to reimburse DHS. However, pursuant to PAM 700, the issue is whether an overissuance occurred and not who caused it to occur. There is no evidence to show that FAP overissuances did not occur, and I find and conclude that in fact they did occur.

In conclusion, based on the above findings of fact and conclusions of law, DHS' request for an Order permitting recoupment of the FAP overissuance to Respondent is GRANTED.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides and determines that DHS' request for an Order allowing recoupment of FAP benefits from Respondent is legally appropriate and it is GRANTED. IT IS HEREBY ORDERED that DHS' request is GRANTED AND DHS may proceed with recoupment and debt collection action.

All steps shall be taken in accordance with DHS policy and procedure.



Jan Leventer
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: September 1, 2011

2006-23505/JL

Date Mailed: September 1, 2011

NOTICE: The law provides that within 60 days from the mailing date of the above hearing Decision the Respondent may appeal it to the circuit court for the county in which he/she resides or has his or her principal place of business in this state, or in the circuit court for Ingham County. Administrative Hearings, on its own motion, or on request of a party within 60 days of the mailing date of this Hearing Decision, may order a rehearing.

JL/pf

cc:

