

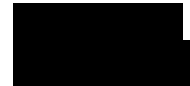
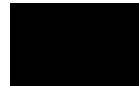
STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No: 20079668

Issue No: 4060



Hearing Date: January 26, 2011

Genesee County DHS

ADMINISTRATIVE LAW JUDGE: Kevin Scully

HEARING DECISION

This matter is before the undersigned Administrative Law Judge by authority of MCL 400.9 and MCL 400.37. Respondent's request for a hearing was received on October 16, 2006. Notice of the hearing was sent to the Respondent's last known address, but the Respondent did not appear at the hearing. After due notice, a telephone hearing was held on Wednesday, January 26, 2011.

ISSUE

Whether the Department of Human Services (Department) properly determined that the Respondent received an overissuance of Food Assistance Program (FAP) 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. The Respondent received FAP benefits from October 1, 2004, through February 28, 2005. Department Exhibit 18.
2. Respondent signed an application for assistance on August 10, 2004. He was aware of the responsibility to report all household employment and income to the Department and had no apparent physical or mental impairment that would limit the understanding or ability to fulfill this requirement. Department Exhibit 12.
3. The Respondent was employed from October of 2004, through February of 2005. Department Exhibits 3 – 4.

4. The Claimant received an overissuance of FAP benefits totaling [REDACTED]. Department Exhibits 23 – 33.
5. Notice of the hearing was sent to the Respondent's last known mailing address, and it was not returned as undeliverable.
6. The Department received the Respondent's request for a hearing on October 16, 2006, protesting the recoupment of FAP benefits.

CONCLUSIONS OF LAW

The Food Assistance Program (FAP) (formerly known as the Food Stamp 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), Reference Table Manual (RFT), and the Bridges Reference Manual (BRM).

Clients must report changes in circumstance that potentially affect eligibility or benefit amount within 10 days of receiving the first payment reflecting the change. BAM 105. Income reporting requirements are limited to the following:

Earned income:

- Starting or stopping employment.
- Changing employers.
- Change in rate of pay.
- Change in work hours of more than five hours per week that is expected to continue for more than one month.

Unearned income:

- Starting or stopping a source of unearned income.
- Change in gross monthly income of more than [REDACTED] since the last reported change.

Other changes:

- Persons in the home.
- Marital status.
- Address and shelter cost changes that result from the move.
- Vehicles.
- Assets.
- Child support expenses paid.
- Health or hospital coverage and premiums.
- Day care needs or providers. BAM 105

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, the Respondent received FAP benefits from October 1, 2004, through February 28, 2005. The Respondent signed an application for FAP benefits on August 10, 2004. Respondent's signature on this document certifies an awareness that fraudulent participation in FAP could result in criminal or civil or administrative claims. The Respondent had no apparent physical or mental impairment that would limit the understanding or ability to fulfill the requirements of the FAP program.

The Respondent was employed from October of 2004, through February of 2005. This earned income was verified by his employer in response to a subpoena from the Department's Office of Inspector General dated August 18, 2006. This employment was not reported to the Department. During this time period, the Respondent received FAP benefits totaling [REDACTED] when he was entitled to receive [REDACTED]. Therefore, the Respondent received a client error overissuance of FAP benefits totaling [REDACTED].

Based on the documents and testimony presented during the hearing, the Department has established that the Claimant received a client error overissuance of FAP benefits totaling [REDACTED].

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the Department of Human Services correctly determined that Claimant received a Food Assistance Program (FAP) overissuance totaling [REDACTED] from October 1, 2004, through February 28, 2005.

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

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

Date Signed: __2/1/11_____

Date Mailed: __2/2/11_____

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.

██████████

██

████████████████████
████████████████████
████████████████████
████████████████████