

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF: [REDACTED]

Respondent

Reg. No.: 2008-10138
Issue No.: 3052
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
November 18, 2009
Genesee County DHS (2)

ADMINISTRATIVE LAW JUDGE: Michael J. Bennane

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; and MCL 400.37, 7 CFR 273.16, MAC R 400.3130, and MAC R 400.3178 upon the Department of Human Service (Department) request for a disqualification hearing. After due notice, a telephone hearing was held on September 9, 2009. The Respondent did not appear. The Department was represented by [REDACTED], recoupment specialist, for the Department of Human Services.

ISSUES

Is the Department entitled to recoup \$1,217.00 in FAP benefits?

FINDINGS OF FACT

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

- (1) On December 6, 2007, the Department filed a hearing request to establish an over-issuance. The Department is requesting to recoup \$383.00 in FAP benefits for the period

of April, 2005, through September, 2005, and \$834.00 in FAP benefits for the period of March, 2006 through May, 2006.

- (2) On March 7, 2005, the respondent signed an application and acknowledged the obligation to report change in the circumstances that might affect the respondent's benefits.

(Department's exhibits pp. 1-8).

- (3) On August 17, 2006, the department received employment information that showed the respondent was receiving income from [REDACTED] and that income was not reported. (Department exhibits 38-39).

- (4) On August 22, 2006, the department received employment information that showed the respondent had received income from [REDACTED] and that income was not reported. (Department exhibits 36-37).

- (5) The Respondent did not report a physical or mental condition that may limit the Respondent's understanding or ability to fulfill the employment and income reporting responsibilities.

- (6) The Department mailed a notice of this hearing to the Respondent at his/her last known address: [REDACTED]; and the mail was returned.

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 administers the FAP program pursuant to MCL 400.10, and MAC R 400.3001-3015. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

In this case, the department has requested recoupment of the over issuance. The department's manuals provide the relevant policy statements and instructions for department caseworkers. In part, the policies provide:

BENEFIT OVERISSUANCES: PAM 700, p. 1

DEPARTMENT POLICY

All Programs

When a customer group receives more benefits than they are entitled to receive, the department must attempt to recoup the over issuance (OI).

The **Automated Recoupment System (ARS)** is the part of CIMS that tracks all FIP, SDA and FAP OIs and payments, issues automated collection notices and triggers automated benefit reductions for active programs.

An **over issuance (OI)** is the amount of benefits issued to the customer group in excess of what they were eligible to receive.

Over issuance Type identifies the cause of an over issuance.

Recoupment is a department action to identify and recover a benefit over issuance. PAM 700, p.1.

PREVENTION OF OVERISSUANCES

All Programs

The department must inform customers of their reporting responsibilities and act on the information reported within the standard of promptness.

During eligibility determination and while the case is active, customers are repeatedly reminded of reporting responsibilities, including:

- acknowledgments on the application form, **and**
- your explanation at application/re-determination interviews, **and**
- customer notices and program pamphlets.

The department must prevent OIs by following PAM 105 requirements and by informing the customer or authorized representative of the following:

- Applicants and recipients are required by law to give complete and accurate information about their circumstances.
- Applicants and recipients are required by law to promptly notify the department of any changes in circumstances within 10 days.
- Incorrect, late reported or omitted information causing an OI can result in cash repayment or benefit reduction.
- A timely hearing request can delete a proposed benefit reduction. If the department is upheld or the customer fails to appear at the hearing, the customer must repay the OI.

Record on the application the customer's comments and/or questions about the above responsibilities. PAM 700, p.2.

OVERISSUANCE AMOUNT

FIP, SDA, CDC and FAP Only

The amount of the OI is the amount of benefits the group actually received minus the amount the group was eligible to receive. PAM 720, p. 6.

In this case, the Department has established by clear and convincing evidence that respondent continued to receive the same benefits after she began to receive income in two different instances.

The Department is entitled to recoup the amount issued in excess of what the respondent was eligible to receive. The undersigned reviewed the FAP budgets presented and the over-issuance amount of FAP benefits they show; and finds the Department's FAP budget computations to be correct. Respondent owes \$1,217.00 in FAP benefits. The Department is entitled to recoup this amount.

DECISION AND ORDER

The Administrative Law Judge, based upon the clear and convincing evidence, decides the following that Department is entitled to recoup over issuance of FAP benefits a total of \$1,217.00.



Michael J. Bennane
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 12/22/09

Date Mailed: 12/22/09

NOTICE: The law provides that within 30 days of receipt of the above Decision and Order, the respondent may appeal it to the circuit court for the county in which he/she lives.

MJB/jlg

cc:

