

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2008-12522
Issue No.: 3052
Case No.: [REDACTED]
Hearing Date: February 23, 2011
Oakland County DHS (03)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon a DHS request for a hearing. After due notice, a telephone hearing was held on February 23, 2011. On behalf of Department of Human Services (DHS), [REDACTED], Recoupment Specialist, appeared and testified. Respondent failed to appear.

ISSUE

Whether DHS established a basis for debt establishment against Respondent for \$99 in allegedly over-issued Food Assistance Program (FAP) benefits.

FINDINGS OF FACT

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

1. Respondent was an ongoing FAP benefit recipient.
2. On an unspecified date, DHS terminated Respondent's FAP benefits.
3. On an unspecified date, Respondent requested a hearing disputing the termination.
4. Respondent requested to continue to receive FAP benefits pending the outcome of the hearing.
5. On 3/20/07, an administrative hearing was held to determine if DHS properly terminated Respondent's FAP benefits.

6. On 3/21/07, an administrative decision was reached that DHS properly terminated Respondent's FAP benefits.
7. As a result of Respondent's hearing request, Respondent received \$99 in FAP benefits for 3/2007 to which Respondent was not entitled.
8. On 1/14/08, DHS mailed a DHS-4358 to Respondent notifying Respondent of the DHS intent to recoup \$99 in allegedly over-issued FAP benefits through debt establishment collection actions.
9. On 1/17/08, Respondent requested a hearing disputing the recoupment by DHS.

CONCLUSIONS OF LAW

The Food Assistance Program (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 (formerly known as the Family Independence Agency) administers the FAP program pursuant to Michigan Compiled Laws 400.10, *et seq.*, and Michigan Administrative Code R 400.3001-3015. DHS policies are currently found in the Bridges Administrative Manual (BAM) and the Bridges Eligibility Manual (BEM). At the time of the alleged over-issuance, DHS policies were found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

When a client group receives more benefits than they are entitled to receive, DHS must attempt to recoup the over-issuance (OI). PAM 700 at 1. An OI is the amount of benefits issued to the client group in excess of what they were eligible to receive. *Id.* Recoupment is a DHS action to identify and recover a benefit OI. *Id.*

Overissuances on active programs are repaid by either lump sum cash payments, monthly cash payments (when court ordered) or administrative recoupment (benefit reduction). PAM 725 at 4. Administrative recoupment takes a percentage of the client's benefits to repay DHS for over-issued benefits.

For over-issued benefits to clients who are no longer receiving benefits, DHS may request a hearing for debt establishment and collection purposes. The hearing decision determines the existence and collectability of a debt to the agency. PAM 725 at 13. DHS requests a "Debt Collection Hearing" when the grantee of an inactive program requests a hearing after receiving the DHS-4358B, Agency and Client Error Information and Repayment Agreement. Active recipients are afforded their hearing rights automatically, but DHS must request hearings when the program is inactive. *Id.*

DHS is to request a debt collection hearing only when there is enough evidence to prove the existence and the outstanding balance of the selected OIs. *Id.* at 15. Existence of an OI is shown by:

- A court order that establishes the OI, or
- A signed repay agreement, or
- A hearing decision that establishes the OI, or
- If a repay, court/hearing decision cannot be located,
- Copies of the budgets used to calculate the OI, and
- Copies of the evidence used to establish the OI, and
- Copies of the client notice explaining the OI. PAM 725 at 15.

OI balances on inactive cases must be repaid by lump sum or monthly cash payments unless collection is suspended. *Id.* at 6. Other debt collection methods allowed by DHS regulations include: cash payments by clients, expunged FAP benefits, State of Michigan tax refunds and lottery winnings, federal salaries, federal benefits and federal tax refunds. *Id.* at 7.

A timely hearing request can delete a proposed benefit reduction. PAM 700 at 2. The client must repay the OI if the hearing decision upholds the department's actions. *Id.*

In the present case, Respondent originally requested an administrative hearing concerning a DHS action terminating Respondent's FAP benefits. Respondent requested deletion of the benefit termination pending the outcome of the hearing. The ALJ upheld the DHS benefit termination causing Respondent to receive \$99 in FAP benefits to which Respondent was not entitled. It is found that DHS established that Respondent received \$99 in FAP benefits due to client error.

DHS may pursue an OI whether it is caused by the client or the agency. *Id.* at 5. An over-issuance caused by DHS error is not pursued if the estimated OI amount is less than \$500 per program. PAM 705 at 1. OIs caused by client error are not established if the OI amount is less than \$125, unless either the client or provider is active for the OI program or the OI is a result of a Quality Control (QC) audit finding. PAM 700 at 7.

Respondent must be inactive for the OI program (FAP) because DHS requested a debt establishment hearing, something only done if Respondent is not active for the OI program. Thus, the recoupment amount does not meet the \$125 threshold or either of the above listed exceptions to allow for recoupment. If Respondent was active for FAP benefits, the recoupment would have been proper as the circumstance would meet an exception for the \$125 minimum threshold. However, as Respondent is inactive for FAP benefits, it is found that DHS failed to establish a basis to recoup \$99 in over-issued FAP benefits from Respondent.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS failed to meet the minimum threshold required to recoup over-issued FAP benefits due to client error through debt establishment. It is ordered that DHS may not pursue collection actions against Respondent for \$99 in over-issued FAP benefits from 3/2007. The actions taken by DHS are REVERSED.

Christian Gardocki

Christian Gardocki
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: 3/1/2011

Date Mailed: 3/1/2011

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 Respondent 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 of the rehearing decision.

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