

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 2008-14581

Issue No: 4060

[REDACTED]

Kent County DHS

ADMINISTRATIVE LAW JUDGE: Vicki L. Armstrong

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to 7 CFR 273.18, 45 CFR 233.20(a)(13), MCL 400.9, MCL 400.37, MCL 400.43(a), MAC R 400.941 and MCL 24.201, *et seq.*, upon a hearing request by the Department of Human Services (department) to establish an overissuance of benefits to Respondent. After due notice was mailed to Respondent, a hearing was held August 23, 2011, at which Respondent did not appear. This matter having been initiated by the department and due notice having been provided to Respondent, the hearing was held in Respondent's absence in accordance with Bridges Administrative Manual, Item 725.

ISSUE

Whether Respondent received an overissuance of Food Assistance Program (FAP) benefits that the department is entitled to recoup?

FINDINGS OF FACT

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

1. Respondent was receiving FAP benefits at all times pertinent to this hearing. (Hearing Summary)
2. Respondent signed Assistance Application (DHS-1171) on August 2, 2005, acknowledging that she understood her failure to give timely, truthful, complete and accurate information about her circumstances could result in a civil or criminal action or an administrative claim against her. (Department Exhibits 2-9).

3. On August 31, 2005, in response to a departmental inquiry, the department received an SOLQ showing Respondent's husband was receiving RSDI. (Department Exhibit 10).
4. As a result of a review, the department discovered it had erred by failing to budget Respondent's husband's RSDI income. A review of Respondent's assistance application shows Respondent properly reported her husband had applied for RSDI. (Department Exhibits 2-9, 25).
5. Respondent received [REDACTED] in FAP benefits during the period of September 2005 through February, 2006. If the income had been properly budgeted by the department, Respondent would not have been eligible to receive FAP benefits. (Department Exhibits 12-24).
6. The department failed to verify or properly budget Respondent's income, resulting in a FAP overissuance for the months of September 2005 through February, 2006, in the amount of [REDACTED] (Department Exhibits 12-24).

CONCLUSIONS OF LAW

The Food Assistance Program (FAP) (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 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) and the Bridges Reference Manual (BRM).

Departmental policy, states that when the client group receives more benefits than the group is entitled to receive, DHS must attempt to recoup the overissuance (OI). Repayment of an OI is the responsibility of anyone who was an eligible, disqualified, or other adult in the program group at the time the OI occurred. Bridges will collect from all adults who were a member of the case. OIs on active programs are repaid by lump sum cash payments, monthly cash payments (when court ordered), and administrative recoupment (benefit reduction). OI balances on inactive cases must be repaid by lump sum or monthly cash payments unless collection is suspended. BAM 725.

An agency error OI is caused by incorrect actions (including delayed or no action) by the Department of Human Services (DHS) or the Department of Information and Technology staff or department processes. Some examples are the available information was not used or was used incorrectly, the policy was misapplied, an action by local or central office staff was delayed, computer errors occurred, information was not shared between department divisions (services staff, Work First! agencies, etc.) or data exchange reports were not acted upon timely (Wage Match, New Hires, BENDEX, etc.).

In this case, the department admitted that Respondent reported her husband had applied for RSDI income at the time of application, and that the department did not follow their own policies in verifying and properly budgeting Respondent's husband's RSDI income. Because the department failed to budget Respondent's husband's RSDI income, Respondent received \$3,938.00 in FAP benefits for the period of September 2005 through February, 2006, to which she was not entitled. Regardless of fault, the department must attempt to recoup the overissuance.

The Administrative Law Judge finds that the evidence presented by the department shows that Respondent received more benefits that she was entitled to receive. Therefore, Respondent is responsible for repayment of the overissuance.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that Respondent received an overissuance of FAP benefits for the time period of September 2005 through February, 2006, in the amount of \$3,938.00 that the department is entitled to recoup.

It is SO ORDERED.

/s/

Vicki L. Armstrong
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: 8/25/11

Date Mailed: 8/25/11

NOTICE: The law provides that within 60 days of mailing of the above 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.

VLA/ds

