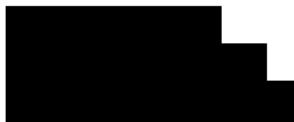


STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Registration. No: 2008-16404
Issue No: 4060
Case No: [REDACTED]
Hearing Date: July 19, 2011
Oakland County DHS

Administrative Law Judge: Mark A. Meyer

HEARING DECISION

This matter is before the undersigned Administrative Law Judge in accordance with 7 CFR 273.18, 45 CFR 233.20(a)(13), MCL 400.9, MCL 400.37, MCL 400.43(a), MCL 24.201, *et seq.*, and 1999 AC, R 400.941, upon a hearing request by the Department of Human Services (the Department) to establish a debt based on a claimed overissuance of benefits to Respondent. Following due notice mailed to Respondent, a hearing was held on July 19, 2011. Respondent appeared and provided testimony. The Department of Human Services (the Department) was represented by agency personnel.

ISSUE

In dispute was whether Respondent received an overissuance of Family Independence Program (FIP) benefits and Food Assistance Program (FAP) benefits, which entitled the Department to recoupment.

FINDINGS OF FACT

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

1. During the period January 29, 2007, through February 11, 2007, Respondent resumed working for his employer, Quik Park. He failed, however, to report the income earned during this period. Because of his failure to report the income, it was not included in his FIP and FAP budgets for the period April 2007 through June 2007 (the period in issue). (Department's Exhibit D-5; Department's hearing summary, dated March 11, 2008; Department representative's hearing testimony, July 19, 2011.)
2. When Respondent's unreported earned income information was subsequently obtained by the Department, and included in his FIP budget

for the period in issue, it was determined that he was entitled to the following benefits:

April 2007 [REDACTED]
May 2007 [REDACTED]
June 2007 [REDACTED]

His total FIP entitlement for the April 2007 through June 2007 period was [REDACTED]. (Department's Exhibit D-8; D-11.)

3. During the months of April 2007 through June 2007, Respondent actually received FIP benefits of [REDACTED] per month, for a total of [REDACTED] for the period. (Department's Exhibit D-3.)
4. Respondent was overissued FIP benefits for the period in issue in the amount of [REDACTED]. (Department's Exhibits D-9; D-11.)
5. When Respondent's unreported earned income was subsequently obtained, and included in his FAP budget for the period in issue, it was determined that he was entitled to the following benefits:

April 2007 [REDACTED]
May 2007 [REDACTED]
June 2007 [REDACTED]

His total FAP entitlement for the April 2007 through June 2007 period was [REDACTED]. (Department's Exhibit D-9; D-11.)

6. During the months of April 2007 through June 2007, Respondent actually received FAP benefits in the amount of \$709.00 per month, for a total of [REDACTED] for the period. (Department's Exhibit D-2).
7. Respondent was overissued FAP benefits for the period in issue in the amount of [REDACTED]. (Department's Exhibits D-9; D-11.)
8. On February 25, 2008, the Department mailed a notice of overissuance to Respondent, informing him that he received an overissuance of both FIP and FAP benefits for the period April 2007 through June 2007, due to client error in failing to report earned income. (Department's Exhibit D-11.)
9. On March 10, 2008, Respondent signed a repayment agreement acknowledging that he received an overissuance of FIP benefits in the amount of [REDACTED], and FAP benefits in the amount of [REDACTED]. (Department's Exhibit D-12.)

10. On March 11, 2008, Respondent filed a request for hearing to contest the Department's overissuance of FIP and FAP benefits determination. (Respondent's hearing request, dated March 22, 2008.)

CONCLUSIONS OF LAW

The FIP was established under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, 8 USC 601, *et seq.* The Department administers the FIP in accordance with MCL 400.10, *et seq.*, and Rules 400.3101 through 400.3131. The FIP replaced the Aid to Dependent Children (ADC) program, effective October 1, 1996. Agency policies pertaining to the FIP are found in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and program reference manuals (RFT). The program's purpose is to provide temporary cash assistance to support a family's movement to self-sufficiency. BEM 230A, p. 1.

FAP – formerly known as the Food Stamp Program – was established by the Food Stamp Act of 1977, 7 USC 2011, *et seq.*, as amended, and is implemented through federal regulations found in 7 CFR 273.1 *et seq.* The Department administers the FAP under MCL 400.10, *et seq.*, and Rules 400.3001 through 400.3015. Agency policies pertaining to the FAP for the period in issue are found in the BAM, BEM, and RFT. The goal of the FAP is to ensure sound nutrition among children and adults. BEM 230B, p. 1.

In determining FIP or FAP eligibility or benefit level, the entire amount of countable and available income – both earned and unearned – is used. BEM 505, p. 2. Countable income is defined as "income remaining after applying [applicable agency policy]." BEM 500, p. 3; BEM 505, p. 1. All income that is not specifically excluded is deemed countable income. BEM 500, p. 1.

Earned income means income received from another person or organization, or from self-employment, for duties that were performed for compensation or profit. BEM 500, p. 3. Wages are considered earned income for FAP benefits budgeting purposes. BEM 501, p. 5.

The Department determines FAP eligibility and benefit amount using: (1) actual income (income that was already received), and (2) prospective income (income amounts not received but expected). BEM 505, p. 1.

Clients receiving FIP or FAP benefits are responsible for reporting changes in circumstances that have the potential for affecting eligibility or benefit amount. BAM 105, p. 7. This includes the proper and correct reporting of income, both earned and unearned. BAM 105, p. 7. Claimant failed to do so here.

When the Department is made aware of, or the client reports, a change in income that will affect eligibility or benefit level, a new FIP or FAP budget must be completed. BEM 505, p. 7. In the present matter, when the agency became aware of the amount of

Respondent's earned income from employment for the period in issue – April 2007 through June 2011 – it used this information to recompute his FIP and FAP budgets. After doing so, it was determined that Respondent received an overissuance of FIP benefits for the period in an amount totaling [REDACTED]. It was also determined that he received an overissuance of FAP benefits for the same period in the amount of [REDACTED].

An overissuance is the amount of benefits issued to a client in excess of what he or she was entitled to receive. BAM 700, p. 1; see also BAM 705, p. 5. When this occurs, the Department must attempt to recoup the overissuance. BAM 700, p. 1.

There are agency errors and client errors that result in overissuances. An agency error occurs when incorrect action is taken by the Department. BAM 700, p. 3; BAM 705, p. 1. A client error occurs when the client received more benefits than he or she was entitled to because the client provided incorrect or incomplete information to the Department. BAM 700, p. 5. The threshold for pursuing recoupment of an overissuance due to client error is [REDACTED] or more. BAM 700, pp. 4, 7; BAM 705, p. 1.

Generally, when the client is currently in an active FAP benefits case, the Department will seek to recoup a determined overissuance from those benefits. See BAM 705, pp. 8-9; BAM 715, pp. 8-9. In those situations, it is the client who must file a timely request for hearing to contest the recoupment action. BAM 705, pp. 8-9; BAM 715, pp. 8-9; BAM 725, p. 15. But, when an overissuance is determined and the client is not currently within an active case, the Department must request a hearing to establish the outstanding debt. See BAM 705, p. 9; BAM 715, p. 9; BAM 725, pp. 14-15.

Overissuances on active programs are repaid by:

- Lump sum cash payments.
- Monthly cash payments (when court ordered).
- Administrative recoupment (benefit reduction).

[BAM 725, p. 4.]

Overissuance balances on inactive cases must be repaid by lump sum or monthly cash payments unless collection is suspended. BAM 725, p. 7.

Repayment of an overissuance is the responsibility of:

- Anyone who was an eligible, disqualified, or other adult in the program group at the time the overissuance occurred.
- A Food Assistance Program (FAP) authorized representative if they had any part in creating the FAP overissuance.

BAM 725, p. 1.

The Department will attempt to collect an overissuance from all adults who were a member of the benefits case. BAM 725, p. 1.

Here, the Department presented a repayment agreement signed by Respondent on March 10, 2008, and relating to the FIP and FAP benefits overissuance in dispute. This agreement provided in part:

I understand and acknowledge that [the Department] has determined that I received an overpayment of benefits[.] I agree to pay back the amount shown above in the manner set forth [in the agreement]. . . . I understand that I have a right to a hearing[.] I knowingly and voluntarily give up my right to a hearing. I am signing this agreement of my own free will and no threat, duress or coercion has been used to make me sign it. [Department's Exhibit D-12.]

For this reason alone, Respondent was not entitled to a hearing to contest the Department's overissuance determination, and one should not have been scheduled by the Michigan Administrative Hearings System. See, e.g., BAM 725, mp. 18.

Even if Respondent was entitled to a hearing in this matter, the Department provided sufficient and credible evidence establishing that he received an overissuance of both FIP and FAP benefits for the period April 2007 and June 2007, in the amount of [REDACTED] and [REDACTED], respectively. This conclusion is reasonably based on the earned income information subsequently obtained by the agency. Respondent did not appear to dispute the amount of earned income used by the Department in making its overissuance determination. Likewise, he did not appear to dispute the budgeting process used by the agency to determine the overissuance amount. Finally, there was no evidence presented by either party indicating that the agency's overissuance computations were in error, incorrect, or otherwise improper.

DECISION AND ORDER

Based on the above findings of fact and conclusions of law, the Administrative Law Judge decides that Respondent received an overissuance of FIP benefits for the time period April 2007 through June 2007. Furthermore, he signed a repayment agreement regarding this overissuance on March 10, 2008.

Therefore, the Department is entitled to recoup a FIP overissuance from Respondent in the amount of [REDACTED]0.

Likewise, it is determined that Respondent received an overissuance of FAP benefits for the time period April 2007 through June 2007. Again, he signed a repayment agreement regarding this overissuance on March 10, 2008.

Therefore, the Department is entitled to recoup a FAP overissuance from Respondent in the amount of \$ [REDACTED]

It is SO ORDERED.

/s/ _____
Mark A. Meyer
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: 8/10/11

Date Mailed: 8/10/11

NOTICE: Respondent may appeal this decision and order within 60 days of the above mailing date. The appeal may be made to the circuit court for the county in which Respondent 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 above mailing date, may order a rehearing.

MAM/sc

cc: [REDACTED]