

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

IN THE MATTER OF:



Reg. No: 2008-23371

Issue No: 4060



Genesee 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 30, 2011. Respondent personally appeared and provided testimony.

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 applied for and received FAP benefits. (Hearing Summary).
2. Respondent signed Assistance Application (DHS-1171) on June 27, 2005, acknowledging that he understood his failure to give timely, truthful, complete and accurate information about his circumstances could result in a civil or criminal action or an administrative claim against him. (Department Exhibits 1-8).
3. On January 9, 2006, Respondent submitted a New Hire Employment Report notifying the department that he had been employed with Poch Staffing from September 2005 through December 23, 2005. (Department Exhibit 10).

4. The department received verification of income from Poch Staffing was on March 26, 2007, showing Respondent was employed from September 19, 2005 until he quit on December 23, 2005. (Department Exhibits 16-17).
5. Respondent received [REDACTED] in FAP benefits during the alleged fraud period of November 2005 through December, 2005. If his income had been properly reported and budgeted by the department, Respondent would only have been eligible to receive [REDACTED] in FAP benefits. (Department Exhibits 11-15).
6. Respondent failed to report his income to the department, resulting in a FAP overissuance for the months of November 2005 through December, 2005, in the amount of [REDACTED]. (Department Exhibits 11-15).
7. Respondent was clearly instructed and fully aware of the responsibility to report all employment and income to the department.
8. Respondent has no apparent physical or mental impairment that would limit the understanding or ability to fulfill the income reporting responsibilities.

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 Reference Tables Manual (RFT).

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.

In this case, the department has established that Respondent was aware of the responsibility to report all income and employment to the department. Department policy requires clients to report any change in circumstances that will affect eligibility or benefit amount within ten days. BAM 105. Respondent has no apparent physical or mental impairment that limits the understanding or ability to fulfill the reporting responsibilities.

Respondent completed an application for assistance on June 27, 2005, indicating he was unemployed. Respondent began working at Poch Staffing in September 2005, but

failed to notify the department of his employment until January 6, 2006. Because Respondent failed to timely report his employment income, Respondent received an overissuance of FAP benefits. Changes for earned income are required to be reported within 10 days of the start date of employment. Respondent testified that since it was a temp agency and he worked less than 10 days, he was unaware that he had to report the income, but he was not in anyway trying to circumvent the system.

This Administrative Law Judge finds that the evidence presented by the department shows that Respondent failed to report his employment income in a timely manner. 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 November 2005 through December 2005 that the department is entitled to recoup.

The department is therefore entitled to recoup FAP overissuance of [REDACTED] from Respondent.

It is SO ORDERED.

/s/

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

Date Signed: 9/1/11

Date Mailed: 9/1/11

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

[REDACTED]