

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: 200826557

Issue No: [REDACTED]

Hearing Date:

March 22, 2011

Ionia 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 March 22, 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.
2. Respondent signed Assistance Application (DHS-1171) on November 10, 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 12-17).

3. As a result of a Quality Control Audit, the agency discovered it had erred by failing to budget Respondent's income. Verification of employment from [REDACTED] [REDACTED]) was received by the department on February 28, 2008, showing Respondent had been employed from January 4, 2007 through December 17, 2007. (Department Exhibits 89-91).
4. On March 3, 2008, the department received Verification of Employment, (DHS-38), from [REDACTED] showing Respondent's husband was employed from June 5, 2007 through September 24, 2007. (Department Exhibits 87-88).
5. Respondent received \$888.00 in FAP benefits during the alleged fraud period of August 2007 through November, 2007. If the income had been properly budgeted by the department, Respondent would only have been eligible to receive \$245.00 in FAP benefits. (Department Exhibits 92-101).
6. The department failed to verify or properly budget Respondent's income, resulting in a FAP overissuance for the months of August 2007 through November, 2007, in the amount of \$643.00. (Department Exhibits 92-101).

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, BAM 725, Collection Actions, states that when the client group receives more benefits than 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.

In this case, the department has admitted that Respondent reported her income and that the department did not follow their own policies in verifying Respondent's income.

Because the department failed to verify Respondent's income, Respondent's income was not budgeted. Regardless of fault, the department must attempt to recoup the overissuance. Here, Respondent received \$888.00 during the period of August 2007 through November, 2007. If the department had properly budgeted Respondent's income, Respondent would only have been eligible to receive \$245.00. As a result, Respondent received an overissuance of \$643.00.

This 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 August 2007 through November, 2007, that the department is entitled to recoup.

The department is therefore entitled to recoup FAP overissuance of \$643.00 from Respondent.

It is SO ORDERED.

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

Date Signed: March 24, 2011

Date Mailed: March 24, 2011

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.

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The Claimant 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 date of the rehearing decision.

VLA [REDACTED]

cc: [REDACTED]