

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

IN THE MATTER OF:

[REDACTED]

Registration. No: 2008-7646
Issue No: 3020; 4060
Case No: [REDACTED]
Hearing Date: July 6, 2011
St. Joseph 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 an overissuance of benefits to Respondent. Following due notice mailed to Respondent, a hearing was held on July 6, 2011. Respondent failed to appear.¹ The Department of Human Services (the Department) was represented by agency personnel.

ISSUE

In dispute was whether Respondent received an overissuance of Food Assistance Program (FAP) benefits, which entitles 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 in issue – May 1, 2005, through June 30, 2005 – Claimant was part of a group size of 3 that included her husband. Also during that time period, she was receiving FAP benefits in the amount of [REDACTED] per month. (Department's Exhibits D-5; D-6; D-7; D-8.)

¹ There was nothing in the record indicating that the notice of hearing in this matter was returned to the Department of Human Services, or to the Michigan Administrative Hearing System, by the United States Postal Service as undeliverable. The hearing thus proceeded in Claimant's absence. See Bridges Administrative Manual (BAM) 725, p. 18.

2. In May and June 2005, Claimant's husband received unemployment benefits totaling [REDACTED]. (Department's Exhibits D-2; D-4.) Claimant failed to provide this information to the Department.
3. Claimant's approval for FAP benefits in the amount of [REDACTED] per month during the period in issue was based on the noninclusion of her husband's unemployment income. (Department's hearing summary, dated October 31, 2007.)
4. Once the Department discovered that Claimant failed to report her husband's unemployment income, the agency recomputed her FAP budget. The result was a determination that Claimant was not entitled to receive FAP benefits during the period in issue. (Department's Exhibits D-5; D-6.)
5. As a result of Claimant's failure to report her husband's unemployment income, she received an overissuance of FAP benefits in the amount of [REDACTED]. (Department's Exhibits D-5; D-6; D-7.)
6. A notice of overissuance was sent to Claimant on October 16, 2007, requesting that she repay the [REDACTED] amount. (Department's Exhibit D-8.)
7. From the Department's notice of recoupment action, Claimant filed a request for hearing. (Department's Exhibit D-8; Claimant's hearing request, dated October 23, 2007.)

CONCLUSIONS OF LAW

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 the Code of Federal Regulations (CFR), 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 Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT). The goal of the FAP is to ensure sound nutrition among children and adults. BEM 230B, p. 1.

In completing a FAP budget to determine 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. Unearned income is all income that is not earned. BEM 500, p. 3. An example of unearned income is unemployment benefits received by a FAP group member. See BEM 503, p. 25.

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 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 FAP budget must be completed. BEM 505, p.7. After discovering Claimant's failure to report unemployment income in the present matter, the agency recomputed Claimant's FAP budget to include the proper amount of unearned income. The result of Claimant's failure to report income was a determined overissuance of FAP benefits to her in an amount totaling [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. For the time period in issue, the threshold for pursuing recoupment of the overissuance was [REDACTED] or more.² 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. For the time period in issue, the Department did not seek recoupment of an overissuance caused by client error unless the amount was [REDACTED] or more.³

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. 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.

² See Program Administrative Manual (PAM) 700, p. 4. The PAM was subsequently superseded by the Bridges Administrative Manual (BAM).

³ See fn 2.

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.

Here, Claimant failed to appear at hearing. Her request for hearing stated only the following: "I don't agree with [the Department's overissuance determination]." (Department's Exhibit D-8; Claimant's hearing request, dated October 23, 2007.) She provided no evidence, however, to dispute the agency's determination.

Conversely, the Department provided credible evidence reasonably establishing that Claimant's husband received unemployment income of [REDACTED] per month during the time period in issue. This evidence also demonstrated that Claimant failed to report this unearned income to the agency. Finally, the Department demonstrated that after the inclusion of this income into Claimant's FAP budget, she was not entitled to receive any FAP benefits during the period in issue. But, she was actually issued [REDACTED] in benefits during that time. The Department is thus entitled to recoup this amount.

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 FAP benefits for the time period May 1, 2005, through June 30, 2005.

Therefore, the Department is entitled to recoup the 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: July 19, 2011

Date Mailed: July 20, 2011

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

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