

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No.: 2008-11181
Issue No.: 3000
Case No.: [REDACTED]
Hearing Date: February 23, 2011
Oakland County DHS (03)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the DHS request for a hearing. After due notice, a telephone hearing was held on February 23, 2011. On behalf of Department of Human Services (DHS), [REDACTED], Recoupment Specialist, appeared and testified. Respondent failed to appear.

ISSUES

Whether the undersigned has a basis to enforce debt collection actions against Respondent when the Notice of Hearing was returned as undeliverable.

FINDINGS OF FACT

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

1. On 12/14/07, DHS requested a hearing to establish a debt of \$979 in allegedly over-issued Food Assistance Program (FAP) benefits against Respondent.
2. On an unspecified date, A Notice of Hearing was mailed to Respondent.
3. The State Office of Administrative Hearings and Rules mailed the Notice of Hearing to Respondent.
4. The Notice of Hearing was returned by the United States Post Office as undeliverable.

CONCLUSIONS OF LAW

The Food Assistance Program (formerly known as the Food Stamp 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 (formerly known as the Family Independence Agency) administers the FAP program pursuant to Michigan Compiled Laws 400.10, *et seq.*, and Michigan Administrative Code R 400.3001-3015. DHS regulations are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT). Updates to DHS regulations are found in the Bridges Policy Bulletin (BPB).

When a client group receives more benefits than they are entitled to receive, DHS must attempt to recoup the over-issuance (OI). PAM 700 at 1. An OI is the amount of benefits issued to the client group in excess of what they were eligible to receive. *Id.* Recoupment is a DHS action to identify and recover a benefit OI. *Id.*

Overissuances on active programs are repaid by either lump sum cash payments, monthly cash payments (when court ordered) or administrative recoupment (benefit reduction). PAM 725 at 4. Administrative recoupment takes a percentage of the client's benefits to repay DHS for over-issued benefits.

For over-issued benefits to clients who are no longer receiving benefits, DHS may request a hearing for debt establishment and collection purposes. The hearing decision determines the existence and collectability of a debt to the agency. PAM 725 at 13. DHS requests a "Debt Collection Hearing" when the grantee of an inactive program requests a hearing after receiving the DHS-4358B, Agency and Client Error Information and Repayment Agreement. Active recipients are afforded their hearing rights automatically, but DHS must request hearings when the program is inactive. *Id.* The debt establishment hearing is considered DHS requested though it is the client's request for hearing that triggers a debt establishment hearing.

For debt establishment hearings, the client is sent a DHS-828, Notice of Debt Collection Hearing approximately three weeks prior to the hearing date. BAM 725 at 17. A copy of this notice is sent to the local office hearings coordinator. *Id.* If the DHS-828 sent to the client is returned to SOAHR by the Post Office as undeliverable, SOAHR will dismiss the hearing. *Id.*

In the present case, SOAHR mailed a DHS-828 to Respondent. The DHS-828 was returned by the United States Post Office as undeliverable. Therefore, the DHS hearing request must be dismissed. The dismissal is without prejudice meaning that DHS may still request a future hearing concerning debt collection actions against Respondent.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the undersigned may not make any findings concerning the DHS collection action because the Notice of Hearing mailed to Respondent was undeliverable. The debt collection of \$979 in allegedly over-issued FAP benefits is DISMISSED WITHOUT PREJUDICE.

Christian Gardocki

Christian Gardocki
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: 3/1/2011

Date Mailed: 3/1/2011

NOTICE: Administrative Hearings may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. Administrative Hearings will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 60 days of the filing of the original request.

The Respondent 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 of the rehearing decision.

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