

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

IN THE MATTER OF:



Registration. No: 2008-13766
Issue No: 4060
Case No: [REDACTED]
Hearing Date: July 19, 2011
Macomb 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 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. At all times relevant to this matter, Respondent was receiving FAP benefits for a group size of five. (Department's Exhibits D5; D-6.)
2. Although Respondent reported earned income when she applied for benefits on August 31, 2006, the Department failed to include this income in determining the amount of her monthly FAP benefit allotment. (Department's Exhibits D-1; D-2; Department's hearing summary, dated January 8, 2008.)
3. This agency error was discovered by the Department when Respondent filed a second application for assistance on July 24, 2007. (Department's exhibits D-3; D-4; Department's hearing summary.)

4. When Respondent's reported earned income was finally included in her FAP budget, it was determined by the Department that she received an overissuance of FAP benefits for the period September 2006 through March 2007 (the period in issue) in an amount totaling [REDACTED]. (Department's exhibits D-4; D-5; D-6; D-8; Department's hearing summary.)
5. In October 2007, the Department notified Respondent that she was responsible for repaying the amount of overissuance. (Department's Exhibit D-6.)
6. Respondent subsequently filed a request for hearing to contest the Department's overissuance of FAP benefits determination. (Respondent's hearing request, dated November 2, 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 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 program reference manuals (RFT). The goal of the FAP is to ensure sound nutrition among children and adults. BEM 230B, p. 1.

In determining 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. 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. From the evidence presented, Claimant properly and timely did so in August 2006 when she applied for assistance. But, it was not until sometime in July 2007 that the Department finally got around to including this information in Claimant's FAP budget. Unfortunately for her, this agency error created a significant overissuance of benefits for the period October 2006 through March 2007.

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. 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. As noted above, the overissuance in dispute here was unequivocally created by agency error. In any event, the Department must attempt to recoup the overissued amount. BAM 700, 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. The agency did so here.

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.

In the present matter, the Department provided sufficient and credible evidence establishing that due to an agency error Claimant received an overissuance of FAP benefits for the period October 2006 through March 2007, in an amount totaling [REDACTED]. Respondent did not dispute the income information used by the Department in making its overissuance determination. Likewise, she did not 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.

Rather, Respondent effectively made an equitable argument in this matter – i.e., it simply was not fair to make her repay an overissuance of FAP benefits clearly created by an agency error. Her argument is certainly understandable, but ultimately unpersuasive.

Administrative adjudication is an exercise of executive, rather than judicial, power and the granting of equitable remedies is restricted. *Michigan Mutual Liability Co v Baker*, 295 Mich 237, 242-243; 294 NW 168 (1940). In the absence of an express legislative conferral of authority, an administrative agency generally lacks powers grounded in equity. *Delke v Scheuren*, 185 Mich App 326, 332; 460 NW2d 324 (1990), citing *Auto-Owners Ins Co v Elchuk*, 103 Mich App 542; 303 NW2d 35 (1981). In other words, what might seem fair in a particular circumstance is not an issue to be addressed by an administrative agency.

Department policy, grounded in the authority of federal statutes and regulations, unambiguously required that an overissuance of [REDACTED] or more be recouped by the agency, even where the agency was at fault. BAM 700, p. 4.¹ The Department provided credible evidence in the present matter that Claimant received an overissuance of [REDACTED] in FAP benefits during the period in issue, which the agency is entitled to recoup.

¹ The current threshold for agency error is [REDACTED]. Bridges Administrative Manual (BAM) 700, p. 4.

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 October 2006 through March 2007.

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]