

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.: 2008-15618  
Issue No.: 4060  
Case No.: [REDACTED]  
Load No.: [REDACTED]  
Hearing Date: December 1, 2010  
Calhoun County DHS (21)

**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 Respondent's request for a hearing. After due notice, a telephone hearing was held on December 1, 2010. The Respondent appeared and testified [REDACTED] also appeared and testified on behalf of Respondent. [REDACTED] appeared as a translator for Respondent and [REDACTED]. On behalf of Department of Human Services (DHS), [REDACTED], Recoupment Specialist, appeared and testified.

**ISSUE**

Whether DHS properly established a sufficient basis for debt collection based on allegedly over-issued Food Assistance Program (FAP) benefits.

**FINDINGS OF FACT**

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

1. Respondent was an ongoing FAP benefit recipient.
2. Respondent's spouse began employment with [REDACTED] in 8/2006.
3. Respondent's spouse's employment with [REDACTED] involved working a range of hours from 40-43 per week.
4. Respondent timely reported the employment to DHS but DHS failed to timely budget the employment income in calculating Respondent's monthly FAP benefit issuance.

5. Had DHS timely budgeted the employment income, Respondent would have received the same FAP benefit issuances for 12/2006.
6. DHS alleges that Respondent was over-issued the following FAP benefits due to Respondent's alleged failure to timely report the employment income: \$198 in 12/2006, \$155 in 8/2007 and \$155 in 9/2007.
7. On 2/8/08, DHS mailed Respondent a notice of the alleged FAP benefit over-issuance and informed Respondent that DHS intended to recoup the FAP benefits.
8. On 2/19/08, Respondent requested a hearing concerning recoupment of the FAP benefits.
9. Subsequent to Respondent's hearing request, DHS requested a hearing to establish a debt by Respondent to allow for collection actions of the alleged FAP benefit over-issuance.

### **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 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).

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.*

DHS may pursue an OI whether it is a client caused error or DHS error. *Id.* at 5. An over-issuance caused by client error is not pursued if the estimated OI amount is less than \$125 per program. PAM 715 at 5.

Agency error OIs are not pursued if the estimated OI amount is less than \$500 per program. PAM 705 at 1. If improper budgeting of income caused the OI, DHS is to use actual income for the past OI month for that income source. PAM 705 at 6.

All cases that contain an adult member from the original OI group and are active for the program in which the OI occurred are liable for the OI and subject to recoupment. PAM

725 at 3. OIs on inactive programs are recouped through cash repayment processes. *Id.* OI balances on inactive cases must be repaid by lump sum or monthly cash payments unless collection is suspended. *Id.* at 6.

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. Though it is the client’s hearing request which initiates the scheduling of an administrative hearing, the hearing is actually considered DHS requested as DHS is attempting to establish a basis for a debt collection. The hearing decision determines the existence and collectability of a debt to the agency. *Id.*

In the present case, DHS contends that Respondent was over-issued \$198 in FAP benefits for 12/2006 and an additional \$310 in FAP benefits for 8/2007-9/2007. DHS contends that the error was client caused by Respondent’s failure to report the earnings of her spouse. Respondent contends the error was DHS caused as her spouse’s employment was reported to DHS.

Respondent credibly testified that the employment income was reported. DHS had no evidence to refute Respondent’s testimony. It is found that the failure to budget Respondent’s spouse’s employment was DHS error, not Respondent’s.

As stated above, agency errors are not recoupable unless the amount exceeds \$500. DHS alleged that Respondent was over-issued \$198 in FAP benefits for 12/2006 and \$155 in FAP benefits for 8/2007 and 9/2007; the total over-issuance is \$508, just above the minimum amount to be established to recoup over-issuances caused by agency error.

Food assistance groups with countable earnings are assigned to the simplified reporting (SR) category. BAM 200 at 1. This reporting option increases FAP participation by employed households and provides workload relief. *Id.* Simplified reporting groups are required to report only when the group’s actual gross monthly income (not converted) exceeds the SR income limit for their group size. *Id.* No other change reporting is required. *Id.*

At the time of the alleged over-issuance, the simplified reporting limit for Respondent’s four-person group was \$2167. PRT 250 at 1. Had DHS budgeted Respondent’s income in 10/2006, Respondent would have been eligible for simplified reporting. In 12/2006, after counting the previously unbudgeted employment income, Respondent’s total group income was \$1107. Under simplified reporting, Respondent had no obligation to report the income increase because the total group income would not have exceeded the simplified reporting limit. An over-issuance of FAP benefits cannot be said to have occurred if Claimant received the proper FAP benefit amount under DHS regulations. Thus, it is found that no over-issuance of FAP benefits occurred in 12/2007.

By finding that Respondent was not over-issued FAP benefits for 12/2006, the total over-issuance decreases to \$310 for 8/2007 and 9/2007. As previously stated, agency error over-issuances are not pursuable if the over-issuance does not exceed \$500. As it has already been found that the over-issuance was caused by agency-error, DHS has not established a sufficient basis to pursue recoupment or debt establishment against Respondent.

**DECISION AND ORDER**

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS failed to establish a basis for recoupment or debt establishment against Respondent for alleged over-issuance of FAP benefits from 12/2006 and 7/2007-8/2007. It is ordered that DHS not pursue recoupment against Respondent for the \$508 in FAP benefits DHS alleged to have been over-issued to Respondent. If DHS has initiated recoupment, DHS must supplement Respondent for any already recouped FAP benefits. The actions taken by DHS are REVERSED.

*Christian Gardocki*

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Christian Gardocki  
Administrative Law Judge  
For Ismael Ahmed, Director  
Department of Human Services

Date Signed: 12/21/2010

Date Mailed: 12/21/2010

**NOTICE:** The law provides that within 60 days from the mailing date of the above hearing 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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