

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No: 200817442

Issue No: 3020; 4060

Case No:

Load No:

Hearing Date:

August 18, 2010

Ottawa County DHS

ADMINISTRATIVE LAW JUDGE: Suzanne L. Morris

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 August 18, 2010, at which Respondent did not appear. This matter having been initiated by the department and due notice having been provided to the Respondent, the hearing was held in Respondent's absence in accordance with Bridges Administrative Manual, Item 725.

ISSUES

1. Did Respondent receive an overissuance of Food Assistance Program (FAP) benefits that the department is entitled to recoup?
2. Did Respondent receive an overissuance of Medical Assistance (MA) program 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 applied for and received FAP benefits and Medical Assistance (MA).

2. Respondent signed Assistance Application (DHS-1171) on November 28, 2006, 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 Exhibit 1-7).
3. On July 30, 2007, a Verification of Employment was received by the department showing Respondent was currently employed at [REDACTED] with a start date of July 24, 2001. Respondent did not report this income to the department. (Department Exhibits 21-28).
4. [REDACTED] completed a Verification of Employment and returned it to the department on August 22, 2007, indicating that Respondent began employment with them on December 18, 2006 and was still employed with them but currently off on summer break. (Department Exhibits 30-31).
5. Respondent received \$ [REDACTED] in FAP and \$ [REDACTED] in MA benefits during the alleged fraud period of December 2006 through August, 2007. If the income had been properly reported and budgeted by the department, the respondent would only have been eligible to receive \$ [REDACTED] in FAP benefits and would have been ineligible to receive MA benefits. (Department Exhibits 32-41).
6. Respondent failed to report her employment income at the time of application for [REDACTED] or in a timely manner when she began working for [REDACTED] resulting in a FAP and MA overissuance for the months of December 2006 through August, 2007, in the amount of \$ [REDACTED] for FAP and \$ [REDACTED] in MA benefits. (Department Exhibits 30-41).
7. Respondent was clearly instructed and fully aware of the responsibility to report all employment and income to the department.
8. Respondent has no apparent physical or mental impairment that would limit the understanding or ability to fulfill the income reporting responsibilities.

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).

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department of Human Services (DHS or department) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105. 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 established that Respondent was aware of the responsibility to report all income and employment to the department. Department policy requires clients to report any change in circumstances that will affect eligibility or benefit amount within ten days. BAM, Item 105, p. 7. Respondent has no apparent physical or mental impairment that limits the understanding or ability to fulfill the reporting responsibilities. Respondent completed an application for assistance on November 28, 2006. On this application, Respondent indicated that she was unemployed. The Verification of Employment information shows that Respondent was employed at Red Lobster at the time of application and had been employed at Red Lobster since July 24, 2001. Respondent was also employed at Muskegon Public Schools since December 18, 2006. However, Respondent continued to have no earnings budgeted into her case. The notices generated to Respondent would have shown that no earned income was being budgeted and should have alerted Respondent that she had not reported her employment income.

The Respondent received \$ [REDACTED] in FAP benefits that she was not entitled to receive. The Respondent would not have been eligible to receive MA benefits if her incomes were properly reported and budgeted. Thus, the \$ [REDACTED] in MA expenditures were overissued.

This Administrative Law Judge finds that the evidence presented by the department shows that Respondent failed to report her circumstances in an accurate manner. Therefore, Respondent is responsible for repayment of the overissuance.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of facts and conclusions of law, decides that Respondent received an overissuance of FAP and MA benefits for the time period of December, 2006 through August, 2007 that the department is entitled to recoup.

The department is therefore entitled to recoup the FAP overissuance of \$ [REDACTED] and the MA overissuance of \$ [REDACTED] from Respondent.

SO ORDERED.

___/s/

Suzanne L. Morris
Administrative Law Judge
for Duane Berger, Director
Department of Human Services

Date Signed: January 11, 2011

Date Mailed: January 11, 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.

SLM/alc

cc:

[REDACTED]