

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2008-18616
Issue No.: 3020
Case No.: [REDACTED]
Hearing Date: August 31, 2011
DHS County: Wayne (82-17)

ADMINISTRATIVE LAW JUDGE: Jan Leventer

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to Michigan Compiled Laws (MCL) 400.9 and 400.37, which govern the administrative hearing and appeal process, and Respondent's request for a hearing. After due notice, a telephone hearing was held on August 31, 2011, in Detroit, MI. Respondent appeared and testified. [REDACTED], appeared and testified on behalf of the Department of Human Services (DHS).

ISSUE

Whether DHS is entitled to reimbursement from Respondent for overissuance of Food Assistance Program (FAP) benefits?

FINDINGS OF FACT

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

1. [REDACTED], the U.S. Bankruptcy Court for the Eastern District of Michigan declared Respondent bankrupt under the provisions of Chapter 13, 11 U.S.C. Sec. 1325(a). Respondent's payments to the Trustee in Bankruptcy were deducted directly from his paychecks.
2. On June 15, 2007, Respondent applied for FAP benefits, and DHS approved them.
3. DHS erred by failing to include Respondent's income in its FAP calculations and approving a FAP amount higher than that to which Respondent was legally entitled.

4. From July 1, 2007-November 30, 2007, a period of five months, Respondent received FAP benefits higher than those to which he was entitled.
5. On March 7, 2008, DHS issued a Notice of Overissuance, Department and Client Error Information and Repayment Agreement, and Overissuance Summary to Respondent. Respondent failed to sign the Repayment Agreement.
6. On March 19, 2008, Respondent filed a Hearing Request for Overissuance or Recoupment Action with DHS.
7. In [REDACTED], Respondent was discharged from bankruptcy.

CONCLUSIONS OF LAW

FAP was established by the United States Food Stamp Act of 1977 and is implemented by Federal regulations contained in Title 7 of the Code of Federal Regulations. DHS administers FAP pursuant to MCL 400.10 *et seq.* and Michigan Administrative Code Rules 400.3001-3015. DHS' policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables (RFT). These manuals are available online at www.michigan.gov/dhs-manuals.

The DHS manuals contain the policies and procedures DHS officially created for its own use. While the DHS policies and procedures are not laws created by the U.S. Congress or the Michigan Legislature, they constitute legal authority which DHS must follow. The manuals must be consulted in order to see what policies apply in this case. After setting forth what the applicable policies are, an analysis as to how they apply to the facts of this case will be presented.

The events in this case occurred in 2007-2009. At that time, Program Administrative Manual (PAM), an earlier version of BAM, was in effect. PAM is not available online, but the manual sections relevant to this case are the same as the current BAM sections of the same numbers. www.michigan.gov/dhs-manuals.

PAM 700, "Benefit Overissuances," requires DHS to attempt recoupment of all overissuances, regardless of what caused the overissuance.

BENEFIT OVERISSUANCES

DEPARTMENT POLICY

All Programs

When a client group receives more benefits than they are entitled to receive, DHS must attempt to recoup the overissuance (OI). PAM 700, p. 1.

This policy is applicable in this case, and DHS is clearly required to attempt recoupment. DHS submitted monthly budget calculations of the overissuances for the months in question. DHS' calculations have been reviewed and there is no error in the recoupment amount specified by DHS.

Respondent disputes DHS' recoupment action because he was in bankruptcy in 2007. Respondent asserts that his income should not be counted as his income for FAP calculation purposes because it was used to pay a legal obligation.

PEM 500, "Income," is applicable. PEM 500 states that any income which is used to pay a debt or legal obligation is to be included in gross income for DHS' FAP calculations. PEM 500 requires DHS to include all of Respondent's wages in his gross income for calculating his FAP benefit allotment. PEM 500, p. 3.

Further, as Respondent was discharged from bankruptcy in 2009, there is no impediment to DHS' recoupment and collection action in this case. PAM 725.

In conclusion, based on the above findings of fact and conclusions of law, DHS' request to initiate a recoupment action against Respondent is GRANTED.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides and determines that DHS' request to initiate recoupment and collection action against Respondent is GRANTED.



Jan Leventer
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: September 1, 2011

2008-18616/JL

Date Mailed: September 1, 2011

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.

JL/pf

cc:

