

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 2008-29493
Issue No: 3020, 4060
Case No: [REDACTED]
Hearing Date: August 30, 2011
Kent County DHS

ADMINISTRATIVE LAW JUDGE: Christopher S. Saunders

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon claimant's request for a hearing. After due notice, a telephone hearing was held on August 11, 2011. The respondent personally appeared and provided testimony, as did her daughter.

ISSUE

Did the Respondent receive an overissuance of Food Assistance Program (FAP) benefits that the department is entitled to recoup?

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 active FAP recipient during the period of January 2008 though May 2008.
2. Respondent has been and currently still is an active recipient of FAP benefits.
3. Due to unreported earned income, the Respondent received an overissuance of FAP benefits in the amount of [REDACTED] for the period of January, 2008 though May, 2008. (Department Exhibits 18-28).
4. On July 10, 2009, Respondent paid [REDACTED] to DHS via check for the overissuance she received. (Respondent Exhibit A).
5. In June and July of 2009, the department withheld [REDACTED] per month from the Respondent's FAP benefits to recoup the overissuance of [REDACTED] the Respondent received for the period of January through May 2008.

6. From November 2009 through August 2011, the department has withheld [REDACTED] per month from the Respondent's FAP benefits to recoup the overissuance of [REDACTED] the Respondent received for the period of January through May 2008.
7. At the time of this Administrative Hearing, the department was still showing that the Respondent had a balance due and owing of [REDACTED] for the overissuance.
8. The Respondent's FAP case was active at the time of the Administrative Hearing.

CONCLUSIONS OF LAW

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied. MAC R 400.903(1).

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The department will provide an administrative hearing to review the decision and determine the appropriateness. BAM 600.

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 Program Reference Manual (PRM).

An overissuance is the amount of benefits issued to the client group in excess of what they were eligible to receive. BAM 705. The amount of the overissuance is the amount of benefits the group actually received minus the amount the group was eligible to receive. BAM 720. When a client group receives more benefits than they are entitled to receive, the Department must attempt to recoup the over issuance. BAM 700.

Department errors are caused by incorrect actions by the Department. BAM 705. Department error overissuances are not pursued if the estimated overissuance is less than \$125 per program. BAM 700. Client errors occur when the customer gave incorrect or incomplete information to the Department. Client errors are not established if the overissuance is less than \$125 unless the client group is active for the over issuance program, or the overissuance is a result of a quality control audit finding. BAM 700.

Department errors are caused by incorrect actions by the Department of Human Services (DHS) or the Department of Information and Technology staff or department processes. Some examples are available information was not used or was used incorrectly, policy was misapplied, action by local or central office staff was delayed, computer errors occurred, information was not shared between department divisions (services staff, Work First! agencies, etc.) or data exchange reports were not acted upon timely (Wage Match, New Hires, BENDEX, etc.). If the department is unable to identify the type of overissuance, it is recorded as a department error. BAM 705. Department error overissuances are not pursued if the estimated overissuance is less than \$125 per program. BAM 700.

In the case at hand, the department had previously established that the Respondent received an overissuance in the amount of \$760.00 for the period of January 2008 through May 2008. However, the evidence provided by the Respondent shows that she paid that amount to the department on July 10, 2009. At the hearing, the department representative testified that she felt that the receipt provided by the Respondent was authentic and that it appeared that she had paid back the amount of the overissuance as of July 10, 2009. The department representative further testified that it appeared, based on the receipt presented by the Respondent, the department had improperly withheld the ten and twenty dollar amounts from the Respondent's FAP benefits in an attempt to recoup the overissuance. This Administrative Law Judge agrees and finds that the department has not established that the Respondent has an outstanding debt due to an overissuance of FAP benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department failed to establish that the Respondent has an outstanding debt due to an overissuance of FAP benefits.

Accordingly, any action taken in this matter is **REVERSED**.

/s/

Christopher S. Saunders
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: September 22, 2011

Date Mailed: September 22, 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 Claimant 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 date of the rehearing decision.

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