

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No: 20086438

Issue No:



Case No:

Hearing Date:

March 22, 2011

Ionia County DHS

ADMINISTRATIVE LAW JUDGE: Vicki L. Armstrong

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 March 22, 2011, at which Respondent did not appear. This matter having been initiated by the department and due notice having been provided to Respondent, the hearing was held in Respondent's absence in accordance with Bridges Administrative Manual, Item 725.

ISSUE

Whether Respondent received 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 clear and convincing evidence on the whole record, finds as material fact:

1. Respondent applied for and received FAP benefits.
2. Respondent signed Assistance Application (DHS-1171) on February 13, 2007, acknowledging that he understood his failure to give timely, truthful, complete and accurate information about his circumstances could result in a civil or criminal action or an administrative claim against him. (Department Exhibits 31-37).

3. As a result of a Wage Match, the department discovered it had erred by failing to budget Respondent's son's income. Verification of employment from [REDACTED] [REDACTED] was received by the department on February 21, 2007, showing Respondent's son was working and had been employed by since January 10, 2007. (Department Exhibits 17-19).
4. Respondent received \$1,632.00 in FAP benefits during the alleged fraud period of April 2007 to July, 2007. If the department had properly budgeted the reported income, Respondent would not have been eligible to receive FAP benefits. (Department Exhibits 7-16, 27-28).
5. The department failed to verify or properly budget Respondent's income, resulting in a FAP overissuance for the months of April 2007 to July, 2007, in the amount of \$1,632.00. (Department Exhibits 7-16, 27-28).

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).

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 admitted that Respondent reported his son's income and that the department did not follow their own policies in verifying Respondent's son's income. Because the department failed to verify Respondent's income, Respondent's income was not budgeted. Regardless of fault, the department must attempt to recoup the overissuance. Here, Respondent received \$1,632.00 during the period of April 2007 through July, 2007. If the department had properly budgeted Respondent's son's income, Respondent would not have been eligible to receive FAP benefits. As a result, Respondent received an overissuance of \$1,632.00. It is noted that Respondent has been making payments since August 2009. As of March 1, 2011, Respondent has paid \$380.00 and has a remaining balance of \$1,252.00.

This Administrative Law Judge finds that the evidence presented by the department shows that Respondent received more benefits that he was entitled to receive. Therefore, Respondent is responsible for repayment of the overissuance.

DECISION AND ORDER

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

The department is therefore entitled to recoup FAP overissuance of \$1,252.00 from Respondent.

It is SO ORDERED.

/s/
Vicki L. Armstrong
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: March 25, 2011

Date Mailed: March 25, 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.

VLA 

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