

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 2008-9008

Issue No: 4060

[REDACTED]

Muskegon 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 [REDACTED], 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. (Hearing Summary; Department Exhibits 5-13).
2. Respondent signed Assistance Application (DHS-1171) on March 26, 2007, 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 Exhibits 6-13).
3. On October 17, 2007, the department mailed Respondent a Notice of Overissuance informing her that she was not entitled to receive FAP benefits because she was under [REDACTED] and living in her parent's home

and requested repayment of the [REDACTED] she received from July 7, 2007 through October 31, 2007. (Department Exhibits 1-4).

4. Respondent received [REDACTED] in FAP benefits during the alleged fraud period of July 7, 2007 through October 31, 2007. If the department had properly processed Respondent's application, Respondent would not have been eligible to receive FAP benefits. (Department Exhibit 3).
5. Respondent properly reported her living situation and based on departmental error, Respondent received a FAP overissuance for the time period of July 7, 2007 through October 31, 2007, in the amount of [REDACTED]. (Department Exhibits 3).
6. Respondent submitted a hearing request on October 25, 2007, protesting the recoupment action. (Request for a Hearing).

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, states that when the client group receives more benefits than the group is 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. BAM 725.

In this case, the department has admitted that Respondent properly reported her living situation and that the department did not follow their own policies in determining Respondent was eligible to receive FAP benefits. According to departmental policy, parents and their children under 22 years of age who live together must be in the same group regardless of whether the child has his/her own spouse or child who lives with the group. BEM 212.

Based on this policy, Respondent was not eligible to receive her own FAP benefits because she was still residing in her mother's home. Regardless of fault, the department must attempt to recoup the overissuance. Here, Respondent received [REDACTED] during the period of July 7, 2007 through October 31, 2007. If the department had properly determined Respondent's eligibility based on her age of [REDACTED] old and living with her mother, Respondent would not have been eligible to receive FAP. As a result, Respondent received an overissuance of [REDACTED].

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 July 7, 2007 through October 31, 2007, that the department is entitled to recoup. The department is therefore entitled to recoup FAP overissuance of [REDACTED] from Respondent.

It is SO ORDERED.

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

Date Signed: 5/13/11

Date Mailed: 5/13/11

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.

[REDACTED]