

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg. No. 20093126
Issue No. 3052
Case No. [REDACTED]
Hearing Date: February 23, 2011
Oakland County DHS (03)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the DHS request for a hearing. After due notice, a telephone hearing was held on February 23, 2011. On behalf of Department of Human Services (DHS), [REDACTED] appeared and testified. Respondent appeared and testified.

ISSUE

Whether DHS established a basis to pursue debt collection actions against Respondent for \$1632 in allegedly over-issued Food Assistance Program (FAP) benefits.

FINDINGS OF FACT

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

1. Respondent was an ongoing FAP benefit recipient.
2. Respondent was part of a FAP benefit group of three persons which included Respondent, her boyfriend (at the time) and Respondent's child.
3. Respondent's boyfriend began employment in 4/2007 with [REDACTED] which if timely reported to DHS would have affected Respondent's FAP benefits in 6/2007 (see Exhibit 4).
4. Respondent's boyfriend's income was not timely reported to DHS.

5. From 6/2007-9/2007, Respondent received \$408 in FAP benefits for each month (see Exhibit 5).
6. Had Respondent's boyfriend's employment income been timely reported, Respondent would have received \$0/month in FAP benefits from 6/2007-9/2007 (see Exhibit 6).
7. On an unspecified date, DHS mailed Respondent a Notice of Over-Issuance (DHS-4358) (Exhibits 7-10) in an attempt to establish a \$1632 debt against Respondent so that DHS may pursue debt collection actions.
8. On 10/24/08, Respondent requested a hearing to dispute the debt collection efforts of DHS.

CONCLUSIONS OF LAW

The Food Assistance Program (formerly known as the Food Stamp 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 (formerly known as the Family Independence Agency) administers the FAP program pursuant to Michigan Compiled Laws 400.10, *et seq.*, and Michigan Administrative Code R 400.3001- 3015. DHS regulations are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RTM). Updates to DHS regulations are found in the Bridges Policy Bulletin (BPB).

DHS requests a "Debt Collection Hearing" when the grantee of an inactive program requests a hearing after receiving the DHS-4358B, Agency and Client Error Information and Repayment Agreement. BAM 725 at 13. Active recipients are afforded their hearing rights automatically, but DHS must request hearings when the program is inactive. *Id.* Though the client must request a hearing to trigger a "Debt Collection Hearing", the hearing is considered to be DHS requested. The hearing decision determines the existence and collectability of a debt to DHS.

When a client group receives more benefits than they are entitled to receive, DHS must attempt to recoup the over-issuance (OI). BAM 700 at 1. An OI is the amount of benefits issued to the client group in excess of what they were eligible to receive. *Id.* Recoupment is a DHS action to identify and recover a benefit OI. *Id.*

DHS may pursue an OI whether it is a client caused error or DHS error. *Id.* at 5. An over-issuance caused by DHS error is not pursued if the estimated OI amount is less than \$125 per program. BAM 705 at 1. If improper budgeting of income caused the OI, use actual income for the past OI month for that income source. BAM 705 at 6.

DHS is to request a debt collection hearing only when there is enough evidence to prove the existence and the outstanding balance of the selected OIs. *Id.* at 15.

Existence of an OI is shown by:

- A court order that establishes the OI, or
- A signed repay agreement, or
- A hearing decision that establishes the OI, or
- If a repay, court/hearing decision cannot be located,
- Copies of the budgets used to calculate the OI, and
- Copies of the evidence used to establish the OI, and
- Copies of the client notice explaining the OI. BAM 725 at 15.

OI balances on inactive cases must be repaid by lump sum or monthly cash payments unless collection is suspended. *Id.* at 6. Other debt collection methods allowed by DHS regulations include: cash payments by clients, expunged FAP benefits, State of Michigan tax refunds and lottery winnings, federal salaries, federal benefits and federal tax refunds. *Id.* at 7.

Respondent's primary argument is that it is unfair for her to be responsible for reporting the income of her former boyfriend. DHS established that Respondent signed the Assistance Application (Exhibit 2) on 8/10/07. Above the signature section of the application is a statement, "I certify that I have received and reviewed a copy of the Acknowledgements, that explains additional information about applying for and receiving assistance benefits." The Acknowledgements reads in part, "I understand that the agency needs to know of any changes in income or assets of all persons listed in the application form." RFF 1171 at 5. The Acknowledgements go on to state, "I will tell the agency of a change **within ten days** of the change." *Id.* The undersigned did not add the bold emphasis on the ten day requirement; this is precisely how it is printed on the Acknowledgement page. By signing the application, Respondent either knew or should have known of her responsibility to report changes to DHS. It is found that Respondent was required to report a change in household income to DHS.

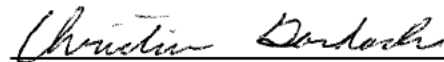
Respondent also contended that her boyfriend (now ex-boyfriend) with the unreported employment income has been very unhelpful financially to Respondent. Respondent stated that he ran up Respondent's credit cards and provided little, if any, child support. Respondent's contention, though sympathetic, is not relevant. Respondent is encouraged to seek appropriate remedies against her ex-boyfriend such as small claims court for assistance with credit card bills and Friend of the Court for establishing a child support action. The undersigned may not employ a debt establishment hearing as a means to offset previous alleged injustice against Respondent.

DHS provided all necessary budgets and documents to establish that Respondent received \$408/month in over-issued FAP benefits from 6/2007-9/2007. DHS properly excluded 4/2007 and 5/2007 from the over-issuance total because had the employment income been reported timely, 6/2007 would have been the effective month of change. DHS even excluded an over-issuance from 10/2007 because that was caused by

agency-error and fell under the threshold amount for recoupment based on DHS error. It is found that DHS established a debt of \$1632 in over-issued FAP benefits to Respondent due to client-error.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS established that Respondent received \$1632 in over-issued FAP benefits. It is further found that DHS may pursue debt collection actions against Respondent to recoup the over-issued benefits. The actions taken by DHS are AFFIRMED.



Christian Gardocki
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: 03/14/11

Date Mailed: 03/17/11

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 Respondent 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.

CG/dj

cc:

