

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 2009-20963

Issue No: 4060

[REDACTED]

Genesee County DHS-02

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 August 30, 2011. Respondent personally appeared and provided testimony.

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 was receiving FAP at all times pertinent to this hearing. (Hearing Summary)
2. Respondent signed Assistance Application (DHS-1171) on June 30, 2005, 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 1-7).
3. On December 15, 2005, Respondent properly notified the department that she was working at Total Renal Care. (Department Exhibits 8-9).

4. On April 11, 2007, the department discovered their failure to budget Respondent's income through a Wage Match. (Department Exhibit 10).
5. Respondent received [REDACTED] in FAP benefits during the period of April 2006 through June 2006. If Respondent's employment income had been properly budgeted by the agency, Respondent would only have been eligible to receive [REDACTED] in FAP benefits. (Department Exhibits 11-17).
6. The agency failed to verify or properly budget Respondent's income, resulting in a FAP overissuance for the months of April 2006 through June 2006, in the amount of [REDACTED]. (Department Exhibits 11-17).

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 Reference Tables Manual (RFT).

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 agency has admitted that Respondent timely reported her employment income and that the agency did not follow their policies in budgeting Respondent's income. Because the agency failed to follow their policies, Respondent's employment income was not budgeted. Regardless of fault, the department must attempt to recoup the overissuance. Here, Respondent received \$1,089.00 from April 2006 through June 2006. If the department had properly budgeted Respondent's employment income, Respondent would only have been eligible to receive [REDACTED] in FAP benefits. As a result, Respondent received an overissuance of [REDACTED].

Claimant testified that she does not feel she should not have to repay it when she did everything required of her and the overissuance was a result of the department's incompetence. Claimant's grievance centers on dissatisfaction with the agency's current policy. Claimant's request that she be exempt from repaying the overissuance is not within the scope of authority delegated to this Administrative Law Judge. Administrative Law Judges have no authority to make decisions on constitutional

grounds, overrule statutes, overrule promulgated regulations, or make exceptions to the department policy set out in the program manuals. Furthermore, administrative adjudication is an exercise of executive power rather than judicial power, and restricts the granting of equitable remedies. *Michigan Mutual Liability Co. v Baker*, 295 Mich 237; 294 NW 168 (1940). As such, the agency's request for recoupment must be upheld.

This Administrative Law Judge finds that the evidence presented by the agency shows that Respondent received more benefits that she 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 months of April 2006 through June 2006 that the department is entitled to recoup.

The agency is therefore entitled to recoup the 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: 9/1/11

Date Mailed: 9/1/11

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.

VLA/ds

[REDACTED]