

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF: [REDACTED],
Respondent.

Reg. No: 2009-28374
Issue No: 3052
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
July 30, 2009
Midland County DHS

ADMINISTRATIVE LAW JUDGE: Ivona Rairigh

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 telephone hearing was held on July 30, 2009, at which respondent did not appear. Appearing and testifying on respondent's behalf was his girlfriend [REDACTED], who was also active member of respondent's case.

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 applied for FAP benefits on April 15, 2008 and received such benefits based on his Social Security Income as the only income in his household. [REDACTED] was the other active recipient on respondent's FAP case.

2. At the time of FAP application [REDACTED] informed department's caseworker that she had filed an unemployment benefit claim in [REDACTED] before moving to [REDACTED]. Proof of this filing was provided to the caseworker who documented that [REDACTED] should know soon as to her benefits allotment, which she was to report within 10 days of receipt, in accordance with department's reporting requirements.

3. On August 11, 2008 department received a Semi-Annual Contact Report, DHS-1046, reporting [REDACTED]' receipt of unemployment benefits along with a copy of an August, 2008 bank account statement.

4. Receipt of unemployment benefits was verified on June 3, 2009 from [REDACTED] [REDACTED] [REDACTED] indicating that [REDACTED]' unemployment benefits started on April 16, 2008. This income was direct deposited into a bank account.

5. As a result of the client error respondent received \$467 in FAP benefits ineligibly for the time period of June, 2008 through September, 2008.

6. Respondent was mailed a Notice of Overissuance and requested 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 Program Reference Manual (PRM).

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.

Respondent's FAP overissuance was determined to be client error. [REDACTED] claims that unemployment income was reported to department's caseworker in a timely manner. Documentation provided by the department shows very thorough documentation on part of the caseworker. Therefore, this Administrative Law Judge is persuaded that respondent's report of unemployment benefit receipt in a timely manner would have been acted on by this caseworker. Furthermore, even if a department's error results in an overissuance, departmental policy requires that the department recoup both department and client error overissuances. Respondent is therefore 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 the respondent received an overissuance of FAP benefits for the time period of June, 2008 through September, 2008, that the department is entitled to recoup.

Department is therefore entitled to recoup FAP overissuance of \$467 from the respondent. SO ORDERED.

/s/ _____
Ivona Rairigh
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: April 27, 2010

Date Mailed: April 27, 2010

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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