

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

IN THE MATTER OF:

[REDACTED]

Reg. No. 201011078
Issue No. 3052
Case No. [REDACTED]
Hearing Date: April 27, 2011
St Clair County DHS

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 a Department of Human Services (DHS) request for a hearing. After due notice, a telephone hearing was held on April 27, 2011. On behalf of DHS, [REDACTED] appeared and testified. Respondent failed to appear.

ISSUE

Whether DHS established a basis to pursue debt collection actions against Respondent for \$2738 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. From 1/2009-6/2009, Respondent was an ongoing FAP benefit recipient.
2. From 1/2009-6/2009, DHS should have budgeted employment income for Respondent and his daughter.
3. Respondent failed to list any employment income for himself or his daughter on two different Assistance Applications (Exhibits 65-80 and Exhibits 88-103) signed by Respondent on 2/5/09 and 11/11/08 respectively.
4. Respondent was an employee for [REDACTED] (see Exhibit 33-35).

5. Respondent's daughter was an employee for [REDACTED] (see Exhibit 36-42).
6. From 1/2009-6/2009, DHS failed to budget employment income for Respondent and his daughter.
7. From 1/2009-2009, Respondent received \$980 in FAP benefits.
8. From 1/2009-2/2009, Respondent should have received \$129 in FAP benefits (see Exhibit 16).
9. From 3/2009-6/2009, Respondent received \$2645 in FAP benefits.
10. From 3/2009-6/2009, Respondent should have received \$758 in FAP benefits (see Exhibit 17).
11. Had DHS properly budgeted Respondent's FAP benefit group's employment income (not counting a 20% credit for reporting employment), Respondent would have received \$2738 less in FAP benefits over the course of 1/2009-6/2009.
12. On 10/6/09, DHS mailed Respondent a DHS-4358 (Exhibits 8-12) informing Respondent of the intent to pursue debt collection actions concerning \$2738 in allegedly over-issued FAP benefits.
13. On 10/28/09, Respondent requested a hearing to dispute the debt collection actions.

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). DHS (formerly known as the Family Independence Agency) administers the Food Assistance 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). Current DHS manuals may be found online at the following URL : <http://www.mfia.state.mi.us/olmweb/ex/html/>.

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. Client and Agency error OIs are not pursued if the estimated OI amount is less than \$125 per program. BAM 700 at 7. If improper budgeting of income caused the OI, DHS is to recalculate the benefits using 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 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, 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.

In the present case, DHS alleged that Respondent received a total of \$2738 in over-issued FAP benefits over the period of 1/2009-6/2009. DHS established that the error was client caused based on Respondent's failure to report employment income for himself and his daughter on multiple Assistance Applications submitted by Respondent; one application was signed by Respondent on 11/11/08 and a second application was signed by Respondent on 2/5/09 (and resigned on 2/17/09). DHS provided verifications of Respondent's and his daughter's employment income.

DHS also established through budgets (Exhibits 21-32) that Respondent was over-issued FAP benefits totaling \$2738 over the period of 1/2009-6/2009. Based on the

201011078/CG

income information provided, the budgets appear to accurately reflect the unreported income by Respondent and his daughter. The budgets also appear to properly calculate the proper amount of FAP benefits that Respondent received versus what he should have received; the difference totaling \$2,738. Accordingly, DHS may pursue debt collections against Respondent for \$2738.

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 \$2738 in over-issued FAP benefits over the period of 1/2009-6/2009. 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: May 4, 2011

Date Mailed: May 4, 2011

NOTICE: The law provides that within 60 days from the mailing date 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.

CG/ctl

cc:

