

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

IN THE MATTER OF:

[REDACTED]

Registration. No: 2010-45672  
Issue No: 3020; 4060  
Case No: [REDACTED]  
Hearing Date: July 6, 2011  
St. Joseph County DHS

Administrative Law Judge: Mark A. Meyer

**HEARING DECISION**

This matter is before the undersigned Administrative Law Judge in accordance with 7 CFR 273.18, 45 CFR 233.20(a)(13), MCL 400.9, MCL 400.37, MCL 400.43(a), MCL 24.201, *et seq.*, and 1999 AC, R 400.941, upon a hearing request by the Department of Human Services (the Department) to establish a debt based on an overissuance of benefits to Respondent. Following due notice mailed to Respondent, a hearing was held on July 6, 2011. Respondent appeared at hearing and provided testimony. The Department of Human Services (the Department) was represented by agency personnel.

**ISSUE**

In dispute was whether Respondent received an overissuance of Food Assistance Program (FAP) benefits, which entitles the Department to recoupment.

**FINDINGS OF FACT**

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

1. Effective June 1, 2009, Claimant was approved for FAP benefits in the amount of [REDACTED] per month; her group size was five. (Department's Exhibit D-6.)
2. At that time, although provided with correct information, the Department computed Claimant's FAP budget based on an earned income of [REDACTED] per month for the period June 1, 2009, through August 31, 2009 – the period in issue. (Department's Exhibits D-2; D-5.) Her actual earned income was higher for that period. (Department's Exhibit D-4.)

3. Based on its erroneous input of earned income information, the Department determined that Claimant was eligible to receive [REDACTED] per month in FAP benefits for the period in issue. (Department's Exhibit D-2.)
4. In November 2009, the Department discovered that the proper amount of Claimant's earned income was not included in her FAP budget. Corrections to income were made and it was determined that, due to the agency's error, Claimant received an overissuance of FAP benefits totaling [REDACTED] for the period in issue. (Department's Exhibit D-8.)
5. A notice of overissuance was sent to Claimant on November 5, 2009, requesting that she repay the [REDACTED] amount. (Department's Exhibit D-8.)
6. From the Department's notice of recoupment action, Claimant filed a request for hearing. (Claimant's hearing request, dated June 28, 2010.)

### **CONCLUSIONS OF LAW**

FAP – formerly known as the Food Stamp Program – was established by the Food Stamp Act of 1977, 7 USC 2011, *et seq.*, as amended, and is implemented through federal regulations found in the Code of Federal Regulations (CFR), 7 CFR 273.1 *et seq.* The Department administers the FAP under MCL 400.10, *et seq.*, and Rules 400.3001 through 400.3015. Agency policies pertaining to the FAP for the period in issue are found in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT). The goal of the FAP is to ensure sound nutrition among children and adults. BEM 230B, p. 1.

In completing a FAP budget to determine eligibility or benefit level, the entire amount of countable and available income, both earned and unearned, is used. BEM 505, p. 2. Countable income is defined as "income remaining after applying [applicable agency policy]." BEM 500, p. 3; BEM 505, p. 1. All income that is not specifically excluded is deemed countable income. BEM 500, p. 1.

Earned income means income received from another person or organization, or from self-employment, for duties that were performed for compensation or profit. BEM 500, p. 3. Unearned income is all income that is not earned. BEM 500, p. 3.

The Department determines FAP eligibility and benefit amount using: (1) actual income (income that was already received), and (2) prospective income (income amounts not received but expected). BEM 505, p. 1.

Clients receiving FAP benefits are responsible for reporting changes in circumstances that have the potential for affecting eligibility or benefit amount. BAM 105, p. 7. This includes the proper and correct reporting of income, both earned and unearned. BAM

105, p. 7. Claimant did so here. But, the Department admitted that for the period in issue, the agency failed to include in Claimant's FAP budget the proper amount of earned income received by her during that time.

When the Department is made aware of, or the client reports, a change in income that will affect eligibility or benefit level, a new FAP budget must be completed. BEM 505, p. 7. Recognizing its error here, the agency recomputed Claimant's FAP budget to include the proper amount of earned income reported by her for the period in issue. The result of the Department's error was a determined overissuance of FAP benefits to Claimant in an amount totaling [REDACTED].

An overissuance is the amount of benefits issued to a client in excess of what he or she was entitled to receive. BAM 700, p. 1; see also BAM 705, p. 5. When this occurs, the Department must attempt to recoup the overissuance. BAM 700, p. 1.

There are agency errors and client errors that result in overissuances. An agency error occurs when incorrect action is taken by the Department. BAM 700, p. 3; BAM 705, p. 1. A client error occurs when the client received more benefits than he or she was entitled to because the client provided incorrect or incomplete information to the agency. BAM 700, p. 5. The threshold for pursuing recoupment of an overissuance, whether the result of Department or client error, is [REDACTED] or more. BAM 700, pp. 4, 7; BAM 705, p. 1.

Generally, when the client is currently in an active FAP benefits case, the Department will seek to recoup a determined overissuance from those benefits. See BAM 705, pp. 8-9; BAM 715, pp. 8-9. In those situations, it is the client who must file a timely request for hearing to contest the recoupment action. BAM 705, pp. 8-9; BAM 715, pp. 8-9. But, when an overissuance is determined and the client is not currently within an active case, the Department must request a hearing to establish the outstanding debt. See BAM 705, p. 9; BAM 715, p. 9.

Overissuances on active programs are repaid by:

- Lump sum cash payments.
- Monthly cash payments (when court ordered).
- Administrative recoupment (benefit reduction).

[BAM 725, p. 4.]

Overissuance balances on inactive cases must be repaid by lump sum or monthly cash payments unless collection is suspended. BAM 725, p. 7.

Repayment of an overissuance is the responsibility of:

- Anyone who was an eligible, disqualified, or other adult in the program group at the time the overissuance occurred.

- A Food Assistance Program (FAP) authorized representative if they had any part in creating the FAP overissuance.

BAM 725, p. 1.

The Department will attempt to collect an overissuance from all adults who were a member of the benefits case. BAM 725, p. 1.

Here, Claimant did not dispute the amounts of earned income used by the Department in recomputing her FAP budget for the period in issue. Rather, her dispute with the agency's overissuance determination centered primarily on equitable principals – i.e., it was not fair that she should be required to repay the overissuance when it was due entirely to Department error.

While Claimant's contention in this matter is certainly understandable, administrative adjudication is an exercise of executive, rather than judicial, power and the granting of equitable remedies is restricted. *Michigan Mutual Liability Co v Baker*, 295 Mich 237, 242-243; 294 NW 168 (1940). In the absence of an express legislative conferral of authority, an administrative agency generally lacks powers grounded in equity. *Delke v Scheuren*, 185 Mich App 326, 332; 460 NW2d 324 (1990), citing *Auto-Owners Ins Co v Elchuk*, 103 Mich App 542; 303 NW2d 35 (1981). In other words, what might seem fair in a particular circumstance is not an issue to be addressed by an administrative agency.

Department policy, grounded in the authority of federal statutes and regulations, unambiguously requires that an overissuance of [REDACTED] or more be recouped by the agency, regardless of fault. BAM 700, pp. 1, 4, 7; BAM 705, p. 1. The Department provided credible evidence in the present matter that Claimant received an overissuance of [REDACTED] in FAP benefits during the period in issue, which the agency is entitled to recoup.

### **DECISION AND ORDER**

Based on the above findings of fact and conclusions of law, the Administrative Law Judge decides that Respondent received an overissuance of FAP benefits for the time period June 1, 2009, through August 31, 2009.

Therefore, the Department is entitled to recoup the FAP overissuance from Respondent, in the amount of [REDACTED].

It is SO ORDERED.

/s/ \_\_\_\_\_  
Mark A. Meyer  
Administrative Law Judge  
for Maura D. Corrigan, Director  
Department of Human Services

Date Signed: July 19, 2011

Date Mailed: July 19, 2011

NOTICE: Respondent may appeal this decision and order within 60 days of the above mailing date. The appeal may be made to the circuit court for the county in which Respondent 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 above mailing date, may order a rehearing.

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cc:

