

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: 2010-48648
Issue No: 4060
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
October 26, 2010
Mecosta County DHS

ADMINISTRATIVE LAW JUDGE: Suzanne L. Morris

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 on October 26, 2010, and respondent did appear.

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. The respondent submitted an application for FAP benefits on May 7, 2008.
(Department Exhibit 1 – 16)

2. The respondent was issued FAP benefits for the months of July and August, 2008 in the amount of \$426. (Department Exhibit 45)

3. The department received wage match information that indicated the respondent was employed. On May 20, 2010, the department mailed the employer, [REDACTED], a Verification of Employment form (DHS-38). The employer completed the form and returned it to the department on June 1, 2010. (Department Exhibit 42 – 44)

4. If the respondent's income had been properly budgeted, the respondent would only have been eligible to receive \$189 in FAP benefits for July, 2008 and no benefits for August, 2008. This resulted in an overissuance in the amount of \$663. (Department Exhibit 46 – 52)

5. The respondent was mailed a Notice of Overissuance (DHS 4358) on June 9, 2010. (Department Exhibit 54 – 58)

6. The respondent submitted a hearing request on June 18, 2010.

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. Respondent's hearing testimony is that it was through the error on part of her caseworker that she received FAP benefits she was not entitled to receive. The respondent testified that she did report this income to her caseworker. This Administrative Law Judge finds that the evidence presented by the department does not establish that any error on part of the caseworker occurred, but that the claimant failed to report her circumstances in a timely and accurate manner. However, even if the overissuance to the respondent was department's error, departmental policy still requires that the department recoup it. 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 July and August, 2008 that the department is entitled to recoup.

Department is therefore entitled to recoup the FAP overissuance of \$663 from the respondent.

SO ORDERED.


/s/

Suzanne L. Morris
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: November 9, 2010

Date Mailed: November 9, 2010

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

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