

STATE OF MICHIGAN  
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES  
ADMINISTRATIVE HEARINGS FOR THE  
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No: 201049974  
Issue No: 4060  
Case No: [REDACTED]  
Load No: [REDACTED]  
Hearing Date:  
October 28, 2010  
Iosco County DHS

**ADMINISTRATIVE LAW JUDGE:** Gary F. Heisler

**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 October 28, 2010, and respondent did appear.

**ISSUE**

Did the Department of Human Services over-issue Claimant \$4,051 of Food Assistance Program (FAP) benefits between November 1, 2009 and May 31, 2010 which 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 was an ongoing recipient of Food Assistance Program (FAP) benefits.
2. On September 15, 2009 Respondent reported that her husband began employment.

3. On October 6, 2009 the Department received verification of the employment. The Department did not include the income in Respondent's Food Assistance Program (FAP) financial eligibility budget.
4. On May 11, 2010 Respondent's husband's income was included in the Food Assistance Program (FAP) financial eligibility budget. Respondent was sent a Notice of Case Action (DHS-1605) which stated her Food Assistance Program (FAP) case would close due to excess income.
5. On June 1, 2010 Respondent's Food Assistance Program (FAP) case closed.
6. On June 30, 2010 Respondent was sent an overissuance notice for the period November 1, 2009 through May 31, 2010.
7. On July 13, 2010 Respondent submitted a request for hearing on the overissuance notice of June 30, 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).

In this case Respondent does not dispute that she received Food Assistance Program (FAP) benefits which she was not eligible for. Respondent asserts she should not have to repay the over-issuance because it was not her fault, it happened because some one at DHS did not do their job.

Department policy provides the following guidance for case workers. The Department's policies are available on the internet through the Department's website.

#### **BAM 705 AGENCY ERROR OVERISSUANCES**

##### **DEPARTMENT POLICY All Programs**

Recoupment policies and procedures vary by program and overissuance (OI) type. This item explains agency error OI processing and establishment.

**BAM 700** explains OI discovery, OI types and standards of promptness. **BAM 715** explains client error, and **BAM 720** explains Intentional Program Violations.

### **Definition All Programs**

An agency error OI is caused by incorrect actions (including delayed or no action) by the Department of Human Services (DHS) or the Department of Information and Technology staff or department processes.

Some examples are:

- Available information was not used or was used incorrectly.
- Policy was misapplied.
- Action by local or central office staff was delayed.
- Computer errors occurred.
- Information was not shared between department divisions (services staff, Work First! agencies, etc.).
- Data exchange reports were not acted upon timely (Wage Match, New Hires, BENDEX, etc.). If unable to identify the type of OI, record it as an agency error.

### **AGENCY ERROR EXCEPTIONS**

#### **FIP, SDA, CDC and FAP**

Agency error OIs are not pursued if the estimated OI amount is less than \$125 per program.

#### **FIP, SDA and FAP Only**

The agency error threshold was lowered to \$125 from \$500 with a retroactive date of August 1, 2008. If the agency error includes some prior months to August 2008 then the \$500 threshold applies. If all months of the error fall after August 2008, the \$125 threshold applies.

The Department policy cited above clearly states that recoupment is pursued for amounts over \$125 when the overissuance was caused by a Department mistake. This Administrative Law Judge checked all the financial eligibility budgets and policies used in calculating the amount of the over-issuance. The [REDACTED] amount is correct in accordance with Department policy and the facts of the case.

**DECISION AND ORDER**

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the Department of Human Services over-issued Claimant [REDACTED] of Food Assistance Program (FAP) benefits between November 1, 2009 and May 31, 2010 which the Department is entitled to recoup.

It is ORDERED that the actions of the Department of Human Services, in this matter, are UPHeld.

/s/ \_\_\_\_\_  
Gary F. Heisler  
Administrative Law Judge  
for Ismael Ahmed, Director  
Department of Human Services

Date Signed: November 23, 2010

Date Mailed: November 24, 2010

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

GFH/vc

cc:

[REDACTED]