

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 2011-15255
Issue No: 4060

[REDACTED]

Grand Traverse County DHS

ADMINISTRATIVE LAW JUDGE: Vicki L. Armstrong

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 May 17, 2011. Respondent personally appeared and provided testimony.

ISSUE

Whether Respondent received 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 clear and convincing evidence on the whole record, finds as material fact:

1. Respondent was receiving FAP benefits at all times pertinent to this hearing. (Hearing Summary)
2. Respondent signed Semi-Annual Contact Report (DHS-1046) on June 16, 2008, acknowledging that she understood her failure to give timely, truthful, complete and accurate information about her circumstances could result in a civil or criminal action or an administrative claim against her. (Department Exhibit 39).
3. On June 19, 2008, the department mailed Respondent an Eligibility Notice advising her that she was only to report changes to her caseworker if her

household's income exceeded [REDACTED] per month. (Department Exhibit 34).

4. On August 22, 2008 and November 24, 2008, the department received Verification of Employment and paystubs from OB Resources, showing Respondent began her employment on November 5, 2005. (Department Exhibits 21-27).
5. Respondent received [REDACTED] in FAP benefits during the alleged fraud period of April 2008 through September, 2008. If the income had been properly reported and budgeted by the department, Respondent would not have been eligible to receive FAP benefits. (Department Exhibits 7-21).
6. The department failed to verify or properly budget Respondent's income, resulting in a FAP overissuance for the months of April 2008 through September, 2008 in the amount of \$1,104.00. (Department Exhibits 7-21).

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 Bridges Reference Manual (BRM).

Departmental policy, states that when the client group receives more benefits than the group is 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. BAM 725.

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 the available information was not used or was used incorrectly, the policy was misapplied, an 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.) or data exchange reports were not acted upon timely (Wage Match, New Hires, BENDEX, etc.).

In this case, Respondent testified that she submitted her paystubs timely and her caseworker failed to process them. The department requested the hearing because Respondent was a Simplified Reporter and upon receiving and processing her Verification of Employment and paystubs in August 2008, the department discovered Respondent failed to report income in excess of her income limit of [REDACTED]. Regardless of fault, the department must attempt to recoup the overissuance. Because Respondent's income was not properly budgeted, Respondent received \$1,104.00 in FAP benefits for the period of April 2008 through September, 2008, to which she was not entitled.

Respondent testified that she understood that she would have to repay the overissuance, but that she was very diligent in doing what she was supposed to do by faxing her paystubs and bonuses to her caseworker and calling her in an attempt to get confirmation that she received them. Respondent testified that she should receive some equitable consideration for not having received benefits in 2010 when she was entitled to them, because during that time the department closed her FAP case in error and kept mailing her benefits to the wrong address. Respondent stated that she would like the benefits she should have received in 2010 credited against what the department overissued her in 2008.

Claimant's grievance centers on dissatisfaction with the department's current policy that Claimant's have 90 days to request a hearing. Claimant's request that her overissuance of FAP benefits from 2008 be balanced against FAP benefits she claimed she was entitled to receive in 2010 and did not receive, is not within the scope of authority delegated to this Administrative Law Judge. Administrative Law Judges have no authority to make decisions on constitutional grounds, overrule statutes, overrule promulgated regulations, or make exceptions to the department policy set out in the program manuals. Furthermore, administrative adjudication is an exercise of executive power rather than judicial power, and restricts the granting of equitable remedies. *Michigan Mutual Liability Co. v Baker*, 295 Mich 237; 294 NW 168 (1940).

The Administrative Law Judge finds that the evidence presented by the department shows that Respondent received more benefits that she was entitled to receive. Therefore, Respondent is 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 Respondent received an overissuance of FAP benefits for the time period of April 2008 through September, 2008 in the amount of [REDACTED] that the department is entitled to recoup.

It is SO ORDERED.

_____/s/_____
Vicki L. Armstrong
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: 7/13/11

Date Mailed: 7/13/11

NOTICE: The law provides that within 60 days of mailing 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.

VLA/ds

■ [REDACTED]