

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 2011-29041
Issue No: 3020

[REDACTED]
Genesee County DHS

ADMINISTRATIVE LAW JUDGE: Vicki L. Armstrong

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Respondent's request for a hearing. After due notice, a telephone hearing was held on [REDACTED]. Respondent personally appeared and offered testimony.

ISSUE

Did the department act properly in trying to recover a FAP overissuance that Respondent received due to department error?

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 has been a FAP recipient at all times relevant to this matter.
2. Respondent applied for State Emergency Relief (SER) on August 29, 2010 and reported she was employed at [REDACTED]. (Department Exhibit 1).
3. Based on Respondent's reporting of employment at [REDACTED], the department discovered that she had originally reported this income on her Assistance Application dated November 12, 2009, but the income had not been budgeted. (Department Exhibit 2).
4. As a result of the department error, Respondent received a [REDACTED] FAP overissuance during the period of October 2009 through September, 2010. If the income had been properly budgeted by the department,

Respondent would only have been eligible to receive [REDACTED] in FAP benefits during the time period. (Department Exhibit 4).

5. On April 13, 2011, the department received Respondent's hearing request, protesting the department's determination that she must repay the FAP overissuance that she received due to the department's error. (Department Exhibit 7).

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).

An overissuance is the amount of benefits issued to the client group in excess of what they were eligible to receive. BAM 705. The amount of the overissuance is the amount of benefits the group actually received minus the amount the group was eligible to receive. BAM 720. When a client group receives more benefits than they are entitled to receive, the Department must attempt to recoup the overissuance. BAM 700.

Department errors are caused by incorrect actions by the Department. BAM 705. Department error overissuances are not pursued if the estimated overissuance is less than [REDACTED] per program. Client errors occur when the customer gave incorrect or incomplete information to the Department. Client errors are not established if the overissuance is less than [REDACTED] unless the client group is active for the overissuance program, or the overissuance is a result of a quality control audit finding. BAM 700.

Respondent was a FAP recipient during October 2009 through September, 2010. Respondent properly reported her employment with [REDACTED] on November 12, 2009, when she submitted her Assistance Application. Due to a department error, this income was not used to determine Respondent's eligibility for FAP benefits, resulting in Respondent receiving a FAP overissuance of [REDACTED] which the department is required to recoup.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department established that Respondent received a \$6,875.00 FAP overissuance due to department error.

The department's recoupment of overissued FAP benefits is AFFIRMED.

It is SO ORDERED.

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

Date Signed: ___ 5/17/11 _____

Date Mailed: ___ 5/17/11 _____

NOTICE: Administrative Hearings may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. Administrative Hearings will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 60 days of the filing of the original request.

The Respondent may appeal the Decision and Order to Circuit Court within 30 days of the mailing of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

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