

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg. No: 201111427
Issue No: [REDACTED]
Case No: [REDACTED]
Hearing Date:
April 6, 2011
St. Clair 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 April 6, 2011. Claimant 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 a certified Simplified Report for her FAP benefits. (Hearing Summary).
2. Respondent signed Assistance Application (DHS-1171) on May 30, 2009, 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 Exhibits 70-85).
3. As a result of a Redetermination, the department received Verification of Employment from [REDACTED] showing Claimant received earnings in July and August of 2009. Respondent did not report the income. (Department Exhibits 12-14, 31-36, 70-85).
4. Respondent received \$461.00 in FAP benefits during the alleged fraud period of August 2009 through November, 2009. If the income from the [REDACTED]

██████████ had been properly reported to and budgeted by the department, Respondent would only have been eligible to receive \$32.00 in FAP benefits. (Department Exhibits 10, 18-30).

5. Respondent failed to report the receipt of earned income from the ██████████, resulting in a FAP overissuance for the months of August 2009 through November, 2009, in the amount of \$429.00. (Department Exhibits 10, 18-30).
6. Respondent was clearly instructed and fully aware of the responsibility to report all employment and income to the department.
7. Respondent has no apparent physical or mental impairment that would limit the understanding or ability to fulfill the income reporting responsibilities.
8. Respondent submitted a hearing request on November 1, 2010, protesting the request for debt establishment. (Request for a Hearing).

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.

In this case, the department has established that Respondent was aware of the responsibility to report all income and employment to the department. Department policy requires clients to report any change in circumstances that will affect eligibility or benefit amount within ten days. BAM 105. Respondent has no apparent physical or mental impairment that limits the understanding or ability to fulfill the reporting responsibilities.

Respondent completed an application for assistance on May 30, 2009. On this application, Respondent indicated that her last day of work at the ██████████ would be June 12, 2009. However, the department received Verification of Employment from the ██████████ ██████████ in October 2009, showing Claimant received income in July and August 2009, which she did not report to the department.

Respondent testified that she works 10 months a year and chooses to be paid for 26 weeks instead of the 22 weeks she actually works, in order to have an income during the summer. Respondent stated that she reported this to the department. A review of the case worker's notes from Respondent's assistance application on May 30, 2009, shows no information concerning income from the [REDACTED] that Respondent would be receiving during the summer months.

Furthermore, the Eligibility Notice dated July 1, 2009, that was mailed to Claimant, shows that Respondent's earnings were budgeted at only \$1,020.00, which would have put Respondent on notice that her earnings from the [REDACTED] were not being budgeted. As a general practice, wages are not income until actually paid. BEM 501.

This Administrative Law Judge finds that the evidence presented by the department shows that Respondent failed to report she would continue to receive income from the [REDACTED] in an accurate and timely manner. 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 August 2009 through November, 2009, that the department is entitled to recoup.

The department is therefore entitled to recoup FAP overissuance of \$429.00 from Respondent.

It is SO ORDERED.

/s/

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

Date Signed: April 13, 2011

Date Mailed: April 13, 2011

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.

201111427/VLA

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt 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.

VLA [REDACTED]

cc: [REDACTED]