

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201128528  
Issue No.: 3052  
Case No.: [REDACTED]  
Hearing Date: August 24, 2011  
Wayne County DHS (55)

**ADMINISTRATIVE LAW JUDGE:** Lynn M. Ferris

**HEARING DECISION**

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the claimant's request for a hearing. After due notice, a telephone hearing was held on August 24, 2011. The claimant appeared and testified. Agent [REDACTED], Office of Inspector General appeared on behalf of the Department.

**ISSUE**

Whether the Department is entitled to recoup an overissuance of Food Assistance (FAP) benefits and whether the Respondent committed an intentional program violation (IPV).

**FINDINGS OF FACT**

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. The Department's Office of Inspector General (OIG) filed a hearing request to establish an over issuance of benefits received by Respondent, as a result of Respondent having committed an IPV. The OIG also requested that Respondent be disqualified from receiving program benefits.
2. Respondent was a recipient of Food Assistance (FAP) during the period of January 2008 through September 2008.
3. Respondent currently receives Food Assistance of \$376 per month.

201128528/LMF

4. Respondent was unaware of the responsibility to report all household employment and income to the Department, and had difficulty receiving in completing his paperwork.
5. Respondent was employed and received earnings during the period of January 2008 through September 2008, but not during July 2008.
6. Respondent reported some of his employment.
7. As a result, Respondent received over issuance is in the amount of \$1526 under the FAP program.
8. At the hearing, the Department agreed to enter into an administrative recoupment agreement and will recoup the overissuance amount from the Respondent's current FAP grant amount of \$346.
9. In the event the Respondent becomes ineligible for FAP benefits the Department will seek recoupment in the amount of \$50 per month.
10. The Department agreed that the Respondent would not be charged with an Intentional Program Violation as a result of this hearing and would not be disqualified from receiving Food Assistance.
11. The Respondent as a result of the Department's agreement stated that he no longer wished to proceed with the 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 (formerly known as the Family Independence Agency) administers the FAP program pursuant to CML 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).

The Department must prevent over issuances by following BAM 105 requirements and by informing the client's of the following:

Applicants and recipients are required by law to give complete an electorate information about their circumstances.

Applicants and recipients are required by law to promptly notify the Department of all changes in circumstances within 10 days.

An Intentional Program Violation(IPV) is suspected when there is clear and convincing evidence that the client has intentionally withheld or misrepresented information for the purposes of establishing, maintaining, increasing or preventing rejection of benefits for eligibility BAM 720 p. 1.

Under BAM 720 the amount of the over issuance is the amount of benefits the group actually received minus the amount the group was eligible to receive. And over issuance is the amount of benefits issue to the client group in excess of what they were eligible to receive. The Department must use the actual income for the over issuance month in determining the over issuance.

Under Bridges Administrative Manual Item 600, clients have the right to contest any agency decision affecting eligibility or benefit levels whenever they believe the decision is illegal. The agency provides an Administrative Hearing to review the decision and determine if it is appropriate. Agency policy includes procedures to meet the minimal requirements for a fair hearing. Efforts to clarify and resolve the client's concerns start when the agency receives a hearing request and continues through the day of the hearing.

In the present case, the Department has agreed to resolve this matter and entered into an administrative recoupment of the over issuance in the amount of \$1526. Exhibit 1. The Department further agreed that the Respondent would not be charged with an Intentional Program Violation (IPV) arising out of the current Overissuance and that the Respondent would not be disqualified for IPV.

As a result of these agreements, Respondent indicated he no longer wished to proceed with the hearing. Since the Respondent and the Department have agreed to settle this matter, it is unnecessary for this Administrative Law Judge to make a decision regarding the facts and issues in this case.

### **DECISION AND ORDER**

The Administrative Law Judge, based upon the findings of fact and conclusions of law, finds that the Department and Respondent have come to a settlement regarding Respondent's request for a hearing.

Accordingly it is ORDERED:

1. That the Respondent shall not be disqualified from the FAP program for any period, as the Department conceded there is no intentional program violation.

201128528/LMF

2. The Department shall be entitled to initiate recoupment for over issuances of FAP benefits in the amount of \$1526.
3. The Department shall correct the Respondent's case file and Department records to delete any intentional program violation arising from this matter.



Lynn M. Ferris  
Administrative Law Judge  
For Maura Corrigan, Director  
Department of Human Services

Date Signed: September 1, 2011

Date Mailed: September 1, 2011

**NOTICE:** The law provides that within 30 days of receipt of the above Decision and Order, the respondent may appeal it to the circuit court for the county in which he/she lives.

LMF/hw

cc:

