

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201253604
Issue No: 3052
Case No: [REDACTED]
Hearing Date: June 13, 2012
Eaton County DHS

ADMINISTRATIVE LAW JUDGE: Christopher S. Saunders

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon claimant's request for a hearing. After due notice, a telephone hearing was held on June 13, 2012. The respondent personally appeared and provided testimony.

ISSUE

Did the Respondent receive 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 competent, material and substantial evidence on the whole record, finds as material fact:

1. Respondent was an active FAP recipient during the period of November 1, 2010 through September 30, 2011.
2. The department alleges that the Respondent did not report all of her income and therefore received an overissuance of FAP benefits.
3. The department claims that because the Respondent did not report all of her income, she received an overissuance of FAP benefits in the amount of [REDACTED] for the time period of November 1, 2010 through September 30, 2011.
3. The entire amount of the FAP overissuance is still due and owing to the department.
4. The Respondent's FAP case was active at the time of the Administrative Hearing.

CONCLUSIONS OF LAW

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied. MAC R 400.903(1).

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The department will provide an administrative hearing to review the decision and determine the appropriateness. BAM 600.

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).

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 over issuance. 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 \$125 per program. BAM 700. 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 \$125 unless the client group is active for the over issuance program, or the overissuance is a result of a quality control audit finding. BAM 700.

Department errors are caused by incorrect actions 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.) or data exchange reports were not acted upon timely (Wage Match, New Hires, BENDEX, etc.). If the department is unable to identify the type of overissuance, it is recorded as a department error. BAM 705. Department error overissuances are not pursued if the estimated overissuance is less than \$125 per program. BAM 700.

In the case at hand, the department initially indicated that this was an overissuance of FAP benefits as a result of client error. However, at the hearing, the recoupment specialist was not able to identify any specific facts that would show that the Respondent had committed a client error. In fact, the evidence tends to show that the Respondent did report all her income as required and that the error occurred as a result of the department not properly budgeting the Respondent's FAP benefits.

However, as policy indicates above, even department caused overissuances must be pursued for recoupment purposes (BAM 705). Therefore, even though the overissuance was caused by department error, the department is still obligated to pursue recoupment of the overissuance. The evidence presented by the department does show that the Respondent received an overissuance of FAP benefits due to a department error. The evidence provided by the department shows that once the correct amounts were included in Respondent's budget, that she received an overissuance of FAP benefits for the time period of November 1, 2010 through September 30, 2011 in the amount of [REDACTED]

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Respondent was overissued FAP benefits as a result of department error, and there is a current balance due and owing to the department in the amount of [REDACTED].

Accordingly, the Administrative Law Judge ORDERS that the Respondent shall reimburse the department for FAP benefits ineligibly received, and the department shall initiate collection procedures in accordance with department policy.

/s/ _____
Christopher S. Saunders
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: June 19, 2012

Date Mailed: June 19, 2012

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.

201253604/CSS

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.

CSS/cr

cc:

