

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF: [REDACTED],
Respondent

Reg. No: 2008-14895
Issue No: 3020
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
June 18, 2009
Genesee County DHS

ADMINISTRATIVE LAW JUDGE: Ivona Rairigh

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 on June 18, 2009, at which respondent did appear.

ISSUE

Did the department properly determine that the respondent received an overissuance of Food Assistance Program (FAP) benefits from October, 2005 to February, 2006, resulting in an overissuance that the department must 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 a recipient of FAP benefits when the department received a Wage Match computer report on January 10, 2006 indicating FAP group member, [REDACTED] was employed at [REDACTED]. (Department's Exhibit 1).

2. An examination of the case record indicated that this employment had not been reported. [REDACTED] turned age 18 on September 9, 2005, and therefore, his income would have been budgetable toward FAP benefits effective October, 2005.

3. On July 17, 2006, the department received employment verification from [REDACTED] via the Work Number report. This verification indicated that [REDACTED] employment with [REDACTED] began March 18, 2004. (Department's Exhibit 2).

4. On July 18, 2006, a referral was made to the Office of Inspector General (OIG) for a possible fraud investigation. (Department's Exhibit 6).

5. On January 3, 2008, OIG returned the referral to the department due to insufficient evidence to pursue a fraud case. (Department's Exhibit 7).

6. On January 18, 2006, department recomputed the previously determined FAP overissuance (Department's Exhibits 3, 4 and 5) as a client error for October, 2005 to February, 2006, in the amount of \$1,295.00. (Department's Exhibits 8 and 9).

7. On January 18, 2008, department sent the respondent a DHS-4358A-D, Recoupment Agreement, forms. (Department's Exhibit 10). Respondent requested a hearing on February 8, 2008, stating she did nothing wrong, and she did not even want benefits for the boys but was told she had to put them on the application.

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 Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

Michigan law requires the department to take all necessary steps to recover an overpayment made to a public assistance recipient. MCL 400.43(a). The Department's Program Administrative Manual provides the following policy statements and instructions for agency caseworkers:

BENEFIT OVERISSUANCES

DEPARTMENT POLICY

All Programs

When a client group receives more benefits than they are entitled to receive, DHS must attempt to recoup the overissuance (OI). PAM, Item 700, p. 1.

An **overissuance (OI)** is the amount of benefits issued to the client group or CDC provider in excess of what they were eligible to receive. For FAP benefits, an OI is also the amount of benefits trafficked (traded or sold).

OVERISSUANCE TYPES

Client Error

All Programs

A **client error** OI occurs when the client received more benefits than they were entitled to because the client gave incorrect or incomplete information to the department.

A client error also exists when the client's timely request for a hearing results in deletion of a DHS action, **and**

- . The hearing request is later withdrawn, **or**
- . SOAHR denies the hearing request, **or**
- . The client or administrative hearing representative fails to appear for the hearing and SOAHR gives DHS written instructions to proceed, **or**
- . The hearing decision upholds the department's actions. See PAM 600. PAM Item 700, p. 5.

OVERISSUANCE THRESHOLD

FIP, SDS, CDC and FAP Only

Department error OIs are not pursued if the estimated OI amount is less than \$500 per program.

Client error OIs are not established if the OI amount is less than \$125, unless:

- . the client or provider is active for the OI program, or
- . the OI is a result of a Quality Control (QC) audit finding. PAM 700, p. 7.

OVERISSUANCE PERIOD

FIP, SDA, CDC and FAP Only

OI Begin Date

The OI period begins with the first month (or first period for CDC) when benefit issuance exceeds the amount allowed by policy, or 12 months before the discovery date, whichever is later.

To determine the first month of the OI period for changes reported timely and not acted on, allow time for:

- . the full Standard of Promptness (SOP) for change processing, per PAM 220, **and**
- . the full negative action suspense period. See PAM 220, EFFECTIVE DATE OF CHANGE.

OI End Date

The OI period ends the month (or payment period for CDC) before the month when the benefit is corrected.

OVERISSUANCE CALCULATION

FAP Only

The amount of EBT benefits received in the OI calculation is the **gross** (before Automated Recoupment (AR) deductions) amount issued for the benefit month.

FAP participation is obtained on CIMS on the IATP screen.

If the FAP budgetable income included FIP/SDA benefits, use the grant amount actually received in the OI month. Use the FIP benefit amount when FIP closed due to a penalty for non-cooperation with employment-related activity or child support. PAM 705, p. 6.

Determining Budgetable Income

FIP, SDA, CDC and FAP Only

If improper budgeting of income caused the OI, use actual income for the past OI month for that income source.

Convert income received weekly or every other week to a monthly amount. LOA2 will automatically convert based on answers to screen questions.

Exception: For FAP only, income is not converted from a wage match for any type of OI.

Any income properly budgeted in the issuance budget remains the same in that month's corrected budget.

FAP Only

If the FAP budgetable income included FIP/SDA benefits, use the grant amount actually received in the OI month. Use the FIP benefit amount when FIP closed due to a penalty for non-cooperation in an employment-related activity. PAM, Item 705, p. 6.

COLLECTION ACTIONS

DEPARTMENT POLICY

FIP, SDA and FAP Only

When the client group receives more benefits than it is entitled to receive, DHS must attempt to recoup the overissuance (OI). PAM, Item 725, p. 1.

PAYMENT RESPONSIBILITY

All Programs

Repayment of an OI is the responsibility of the person:

- . who signed the recoupment or repayment agreement, **or**
- . who the court or hearing decision ordered to make repayment, **or**
- . anyone who was an eligible, disqualified or other adult in the program group at the time the OI occurred, or
- . a FAP authorized representative if they had any part in creating the FAP OI. PAM, Item 725, p. 1.

DEBT COLLECTION HEARINGS

FIP, SDA, CDC, MA and FAP

DHS requests hearings for debt establishment and collection purposes. The hearing decision determines the existence and collectability of a debt to the agency.

Client Hearing Request on Inactive Cases

DHS requests a Debt Collection Hearing when the grantee of an inactive program requests a hearing after receiving the DHS-4358B, Agency and Client Error Information and Repayment Agreement. Active recipients are afforded their hearing rights automatically, but DHS must request hearings when the program is inactive. See PAM 705 or 715, HEARING REQUESTED, Inactive Cases. PAM, Item 725, p. 18.

Client Hearing Request

If the client requests a hearing in response to the DHS-4354, expedite the agency's request for the Debt Collection hearing. If any OI listed on the GH-800 is sufficiently documented, proceed with the Debt Collection hearing. Follow instructions in Hearing Summary in this item.

If the combined OI balance is below \$1000 for all of the OIs with sufficient evidence, do not request a Debt Collection Hearing. If the hearing has already been requested, complete an DHS-18A, Hearing Request Withdrawal. Note on the DHS-18A if the customer also requested a hearing on the proposed agency action.

Enter Debt Collection code X and the current date for the each remaining OI listed on the GH-800. PAM, Item 725, p. 21.

Respondent testified that her two stepsons moved out in June, 2005 and lived with their father, and that she only listed them on her FAP application because her caseworker told her she had to accept benefits for them. Respondent's testimony is not credible as the application clearly states in bold letters "List yourself first and then all other persons who live in the home or are temporarily absent from your home". Respondent's caseworker would not even know that her stepsons were in the home if the respondent did not write their names on her application. Additionally, there would be no logical reason for the caseworker to force the respondent to claim household members that do not live with her. Respondent's stepsons had to be included on her FAP case as part of her household, and therefore the statement by the caseworker that she had to include them on such case would have been correct.

Policy quoted above clearly requires that the department recoup any client error overissuances if the OI amount is more than \$125. Furthermore, department must pursue debt collection on closed cases unless the OI amount is less than \$125. Respondent's FAP OI is \$1,295.00. Department therefore must attempt to recoup this overissuance through debt collection process on inactive cases.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department properly determined that the respondent received an overissuance of FAP benefits in the amount of \$1,295.00 from October, 2005 to February, 2006, due to client error. Department must recoup such overissuance.

Accordingly, department's action is AFFIRMED, and it is SO ORDERED.

/s/

Ivona Rairigh
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: July 16, 2009

Date Mailed: July 17, 2009

NOTICE: The law provides that within 60 days from the mailing date of the above hearing 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.

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