

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 2008-17198
Issue No: 3020

[REDACTED]
1

Grand Traverse County DHS

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

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 July 14, 2011, at which Respondent personally appeared and provided testimony.

ISSUE

Whether Respondent received an overissuance of Food Assistance Program (FAP) benefits and State Disability Assistance (SDA) benefits that the department is entitled to recoup?

FINDINGS OF FACT

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

1. Respondent was receiving FAP and SDA benefits at all times pertinent to this matter.
2. On March 6, 2006, Respondent signed Assistance Application (DHS-1171) indicating that she was unemployed and was a retiree without any income from RSDI or SSI. (Department Exhibit 50).
3. When the Department budgeted Respondent's reported monthly income, Respondent received [REDACTED] in FAP and [REDACTED] in SDA. (Department Exhibit 2).

4. On February 27, 2007, the Department, per an SOLQ, discovered that Respondent had a RSDI income that was not previously reported. (Department Exhibit 39).
5. On March 18, 2008, the Department verified that Respondent received a retroactive RSDI payment in May, 2006 and regular RSDI payments beginning in June, 2006. (Department Exhibit 3).
6. From July, 2006 through February, 2007, the Respondent received an OI of FAP in the amount of [REDACTED] and SDA in the amount of [REDACTED]. (Department Exhibit 2).
7. On or about March 19, 2008, the Department mailed Respondent a Notice of Overissuance (DHS-4358-A). (Department Exhibits 1-4).
8. Respondent submitted a hearing request on March 31, 2008 protesting the 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 Program Reference Manual (PRM).

The State Disability Assistance (SDA) program provides financial assistance to disabled adults to help them pay for living expenses such as rent, heat, utilities, clothing, food and personal care items. The Department of Human Services (DHS or department) administers the SDA program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3151-400.3180.

When a client group receives more benefits than they are entitled to receive, DHS must attempt to recoup the overissuance (OI). PAM 700. 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. PAM 700. Recoupment is a DHS action to identify and recover a benefit OI. PAM 700. Department errors are caused by incorrect actions by the Department. PAM 705. Department error OIs are not pursued if the estimated overissuance is less than [REDACTED] per program. PAM 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 \$500 unless the client group is active for the overissuance program, or the overissuance is a result of a quality control audit finding. PAM 700.

When a client group receives more benefits than they are entitled to receive, DHS must attempt to recoup the overissuance (OI). PAM 700. The department error OI is caused

by incorrect action (including delayed or no action) by DHS 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 or machine errors occurred
- . Information was not shared between department divisions (services staff, Work First agencies, etc.)
- . Data exchange reports were not acted upon timely (Wage Match, New Hires, BENDEX, etc.)

Where the type of OI cannot be identified, the department shall record it as a department error. PAM 700. For FIP, SDA, CDC and FAP, department error OIs are not pursued if the estimated OI amount is less than \$500 per program. PAM 700. Except there is no threshold limit on CDC system errors. PAM 700.

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. PAM 700. 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 BAM 600. PAM Item 700, p. 5.

For FIP, SDA, CDC and FAP only, 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. PAM 705.

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.

The OI period ends the month (or payment period for CDC) before the month when the benefit is corrected. PAM 705. For FIP, SDA, CDC and FAP only, the OI discovery date for a department error is the date the RS can determine there is a department error. PAM, Item 705, pp. 4-5.

For FAP only, if the FAP budgetable income included FIP/SDA benefits, the department will use the grant amount actually received in the OI month. PAM 705. The department will 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.

In this case, the department is requesting recoupment for an alleged FAP overissuance in the amount of [REDACTED] and SDA overissuance of [REDACTED] for the period of June 1, 2007 through February 30, 2007. At the time Respondent applied for FAP and SDA benefits, she reported that she was an unemployed retiree without any income from RSDI or SSI. The Department, in March, 2008, became aware that Respondent actually had RSDI income since June of 2006. Once this income was verified and properly budgeted, Respondent received an OI of FAP and SDA. This was due to client error for failure to properly report the RSDI income which resulted in the FAP and SDA OI.

Department policy indicates that when a client group receives more benefits than they are entitled to receive, DHS must attempt to recoup the overissuance. PAM 700. Applicable policy provides that client error OIs are recouped if the amount is more than [REDACTED] PAM 700. The overissuance of FAP in this case is [REDACTED] and SDA is [REDACTED] so it must be recouped by the Department.

This Administrative Law Judge finds that the evidence presented by the department shows that Respondent is responsible for repayment of the overissuance of FAP and SDA from June 1, 2006 through February 30, 2007.

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 and SDA benefits for the time period of June 2006 through February 2007, that the department is entitled to recoup.

The department is therefore entitled to recoup FAP overissuance of [REDACTED] and SDA of [REDACTED] from Respondent.

It is SO ORDERED.

/s/
C. Adam Purnell
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: 7/25/11

Date Mailed: 7/25/11

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 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.

CAP/ds

■ [REDACTED]