

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: 2008-10492

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 June, 2004 to June, 2005, 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 signed DHS-1171, Assistance Application, on February 10, 2004, acknowledging her rights and responsibilities. (Department's Exhibit 1).

2. Respondent received FAP benefits and signed another DHS-1171 on February 14, 2005, but did not report employment at [REDACTED] although based on employment verifications later received by the department, she was employed. (Department's Exhibit 2).

3. Department received a Wage Match computer report on May 2, 2005, indicating that the respondent was employed at [REDACTED]. (Department's Exhibit 3).

4. Respondent's case record did not indicate that she had reported this employment to the department, and department was unable to obtain wage verification from the employer at the time.

5. On September 30, 2005, a referral was made to the Office of Inspector General (OIG) for a possible fraud investigation. (Department's Exhibit 4).

6. On June 29, 2007, OIG returned referral due to lack of evidence to pursue intentional program violation. (Department's Exhibit 5).

7. On August 15, 2007, based on case documents and employment verifications, FAP overissuance budgets were computed, resulting in determination of an overissuance in the amount of \$5,266.00 from June, 2004 to June, 2005. (Department's Exhibits 6, 7, 8 and 9).

8. Department notified the respondent of the overissuance advising her that she must repay it. Respondent requested a hearing on November 6, 2007.

#### 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**

#### **Department Error**

##### **All Programs**

A 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.)

If unable to identify the type of OI, record it as a department error.

### **FIP, SDA, CDC, and FAP**

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

**Exception:** There is no threshold limit on CDC **system** errors. RRS in central office will recoup these types of overissuances.

### **FIP, SDA and FAP Only**

**Note:** The department error threshold was lowered to \$500 effective April 1, 2005 and retroactive back to September 1, 2003. If the department error includes September 2003, the \$500 threshold applies. If all months of the error are prior to September 2003, the \$1,000 threshold applies.

### **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 she did report her employment in a timely manner to her caseworker. This overissuance is being treated as a department error. Policy quoted above clearly requires that the department recoup any department error overissuances if the OI amount is more than \$500 per program. Furthermore, department must pursue debt collection on closed cases unless the combined OI balance is below \$1000. Respondent's FAP OI is \$5,266.00. Department therefore must attempt to recoup this overissuance, through debt collection process on inactive cases. Respondent also testified that she is going through bankruptcy and was advised that debt owed to the department must be addressed by her through the appropriate court, as there are no provisions in department policy to dismiss or forgive this debt because of other legal issues a person may have.

### **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 \$5,266.00 from June, 2004 to June, 2005. Department must recoup such overissuance.

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

/s/

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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.

IR [REDACTED]

cc: [REDACTED]