

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: 2009-11224
Issue No: 3020
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
May 7, 2009
Eaton 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 May 7, 2009, at which respondent did not appear. This matter having been initiated by the department and due notice having been provided to the respondent, the hearing was held in respondent absence in accordance with Program Administrative Manual, Item 700.

ISSUE

Did the department properly determine that the respondent received an overissuance of Food Assistance Program (FAP) benefits for May and June, 2008, 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 FIP and FAP benefits when she informed her caseworker via email on March 7, 2008 that she would return to work on March 10, 2008, and that the father of her children had moved back into the home on March 7, 2008. (Department's Exhibits 51-54).
2. Respondent's caseworker failed to process this known information within 15 work days and did not do so until May 23, 2008, resulting in the overissuance of FIP and FAP benefits for May and June, 2008.
3. Department's Recoupment Specialist computed overissuance budgets using respondent's reported change of circumstances and determined that she received \$852.00 in FAP benefits for the months of May and June, 2008 that she was not entitled to receive.
4. Respondent was notified of the overissuance of benefits via DHS-4358A-D letters mailed to her on November 19, 2008. On December 1, 2008 department received respondent's hearing request in which she states she does not understand why she should have to repay the money back when she reported all of her information to the caseworker in a timely manner.

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.

Respondent did not appear for the hearing, and it appears from her hearing request that she is only contesting the fact that the department is asking her to repay benefits she received as a result of 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. Respondent's FAP OI is \$852.00. Department therefore must recoup this overissuance. Department's policy further states:

COLLECTIONS ON ACTIVE PROGRAMS

OIs on active programs are repaid by:

- . lump sum cash payments, **or**
- . monthly cash payments (when court ordered) **or**
- . administrative recoupment (benefit reduction).

Lump Sum Cash Payments

Lump sum cash payments are acceptable on active programs. Payments can be made to the local fiscal unit or to Cashier's Unit, P.O. Box 30259, Lansing, MI 48909.

Note: Note: When the full OI amount is paid in a lump sum prior to the AR effective date, the payment must be entered on ARS immediately after the OI is entered in order to prevent AR from occurring.

Cash Payments

Monthly cash payments (instead of AR) are acceptable on active programs **only** if ordered by a court. See **ADMINISTRATIVE RECOUPMENT, Delinquent Cash Payments**, later in this item.

Note: Note: Clients repaying all or part of an OI with an DHS issued warrant must be referred to the local fiscal office to sign the warrant over to the local office. Do not have the warrant voided and returned to Treasury. PAM, Item 725, pp. 7-8.

Administrative Recoupment

FIP, SDA and FAP Only

Active programs are subject to Administrative Recoupment (AR) for repayment of OIs. Active program recipients are allowed to make monthly cash payments (instead of AR) **only** when ordered by a court. See **Cash Payments** in this item.

Entry of Recoupment Type code 4, 5 or 6 on ARS will start AR. AR cannot cross programs. For example; a FIP OI cannot be recouped from FAP benefits. An ADC OI can be recouped from FIP. A GA OI can be recouped from SDA.

AR continues until program closure or all collectible OIs are repaid. AR automatically resumes when a program with an OI balance reopens. PAM, Item 725, p. 8.

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 \$852.00 for May and June, 2008. 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 14, 2009

Date Mailed: July 15, 2009

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.

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