

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF: [REDACTED]

Claimant

Reg. No: 2009-16865

Issue No: 3020

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

April 22, 2009

Monroe County DHS

ADMINISTRATIVE LAW JUDGE: Suzanne L. Keegstra

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 April 22, 2009. The claimant personally appeared and provided testimony, along with his mother, [REDACTED], and two of his Community Mental Health case workers, Rita White and Britney Crawford.

ISSUE

Did the claimant receive an overissuance (OI) of Food Assistance Program (FAP) benefits during the period of May 2006 through June 2006?

FINDINGS OF FACT

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

1. The claimant completed and turned in an Assistance Application (DHS-1171) on October 4, 2005. On this application, the claimant indicated he received Supplemental Security Income (SSI), but claimed no income (Department Exhibit #1).

2. The claimant completed a Semi-Annual Contact Report (DHS-1046) on March 17, 2006. The claimant checked the box “no” in answer to the question, “[d]oes anyone in your household receive income from working?” (Department Exhibit #2).

3. A consolidated inquiry run by the department showed the claimant was receiving income from [REDACTED] in the second and third quarters of 2006 (Department Exhibit #3).

4. The claimant mailed the department a letter dated June 14, 2006, that indicated he had started to work part-time at [REDACTED] and provided his pay stubs, the first of which was for the pay period of March 11, 2006 through March 24, 2006 (Department Exhibit #5).

5. The department indicates that the claimant had an overissuance (OI) of \$215.00 for the months of May and June, 2006. The department had recouped \$10.00 when the claimant requested a hearing, then the recoupment action was stopped pending the hearing decision (Department Exhibit #7).

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).

Department policy states:

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). This item explains OI types and standard of promptness. PAM, Item 700, p. 1.

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.

FIP and SDA Only

Treat an OI due to excess assets as a department error **unless** IPV caused it.

CDC Only

CDC department errors and CDC provider department errors must be pursued beginning October 1, 2006. If the CDC department error OI period included the month of October 2006, include the months previous to October 2006 when determining the OI amount.

Note: Department errors will be assigned to the provider or the client depending on the type of department error that occurred. See PAM 705 for examples.

MA, SER and ESS Only

Recoupment of department error OIs are not pursued. PAM 700, pp. 3-4.

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.

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.

CLIENT ERROR OVERISSUANCE

Definitions

All Programs

A client/CDC provider error OI occurs when the client receives more benefits than they were entitled to because the client/CDC provider gave incorrect or incomplete information to the department.

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

- the hearing decision upholds the DHS action, **or**
- the client withdraws the hearing request, **or**
- the client fails to appear for the hearing which is not rescheduled, **and**
- the State Office of Administrative Hearings and Rules (SOAHR) sends written notice to proceed with case actions. PAM, Item 715, p. 1.

Department policy indicates that a client error OI occurs when the client receives more benefits than they were entitled to because the client gave incorrect or incomplete information to the department. PAM 700. Department policy indicates a department error OI is caused by incorrect action (including delayed or no action) by DHS staff or department processes. PAM 700. The department did not budget in the income from the claimant's part-time job for the months of May and June, 2006. Thus, there was an OI for these two months.

There are different threshold amounts for a client error OI and a department error OI. Thus, first it must be determined if the OI was a client error or a department error. The

department indicates that this was a client error because the claimant did not report his income within ten days as required by department policy. PAM 105. The department points to the letter dated June 14, 2006, which indicates the claimant began working part-time in March, as evidence that the claimant did not inform the department of his income until June. However, the claimant and his witnesses indicate that this was the third mailing of this letter/documentation because the department stated the previous two had not been received. The claimant testified that he mailed the letter of June 14, 2006, certified because the department claimed they had not received his previous notifications. This Administrative Law Judge asked the department representative to determine if the June 14, 2006, information had been sent by certified mail and the department representative testified that, although it was usually included in the file, the envelope the documentation came in was not there, so she could not determine if it was mailed by certified mail.

The claimant's two witnesses, BC and RW, testified that the claimant had asked them for help in communicating with the Department of Human Services (DHS) staff because he wasn't getting any response. These witnesses are each case workers for the Department of Community Health (DCH). Each witness testified that a previous worker had helped the claimant send in the information regarding his pay and wrote the letters for him due to his mental disability. Each of the DCH case workers testified that they had numerous times left messages and sent letters to the claimant's DHS case worker, which the department indicated they had not received.

This Administrative Law Judge is persuaded that the claimant's first two attempts to provide the pay stubs for his job may not have reached the case worker or may have been misplaced. Thus, this Administrative Law Judge does not find that the department has proven by a preponderance of the evidence that the OI was caused by a client error.

The threshold amounts for a client error OI and a department error OI are different. A client error OI is established when the amount to be recouped is \$125.00 or greater. PAM 700. A department error OI is only pursued if the amount to be recouped is \$500.00 or greater. PAM 700. The department indicates that the amount to be recouped is \$215.00. Therefore, since this Administrative Law Judge has determined that the error was most likely a department error, \$215.00 does not meet the monetary threshold.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department improperly determined that there was a client error OI and finds that there was, instead, a department error OI, the amount of which doesn't meet the monetary threshold. Thus, the OI amount can not be recouped.

Accordingly, the department's action is REVERSED. SO ORDERED.

/s/ _____
Suzanne L. Keegstra
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: April 8, 2009

Date Mailed: April 11, 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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The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing 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.

SLK [REDACTED]

cc: [REDACTED]