

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: 2009-36423  
Issue No: 3052  
Case No: [REDACTED]  
Load No: [REDACTED]  
Hearing Date:  
October 15, 2009  
Kent 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 October 15, 2009. The claimant did personally appear and provide testimony.

ISSUE

Did the claimant receive an overissuance (OI) of Food Assistance Program (FAP) benefits in February through April, 2009 and August, 2009 that the department is entitled to 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. The claimant completed a review application for FAP assistance on July 28, 2008. On this application, he reported that his tenants were moving out and he was losing his rental income. (Department Exhibit 2 – 17).

2. The claimant completed a Redetermination form (DHS-1010) on August 11, 2009. On the Redetermination, the claimant reported that he was receiving \$1000 in rental property income and unemployment compensation benefits (UCB). (Department Exhibit 24 – 27).

3. The department failed to budget the claimant's UCB income, which had started in December, 2008. This caused an OI for February, 2009 through April, 2009. (Department Exhibit 19 – 23).

4. The department failed to budget the claimant's rental income, which began again in June, 2009. (Department Exhibit 29 – 31).

5. If the department had budgeted the claimant's income, the claimant would have been entitled to \$14 for the months of February and March, 2009. The claimant would have been eligible for \$16 in FAP benefits for April, 2009 and the claimant would have been eligible for \$0 in benefits for August, 2009. The total OI for these months is \$708. (Department Exhibit 34 – 46).

6. The department representative changed this from a client error OI to an agency error OI prior to the hearing. (Department Exhibit 50).

7. The claimant submitted a hearing request on September 9, 2009.

#### 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.

#### **Definitions**

The **Automated Recoupment System (ARS)** is part of CIMS that tracks all FIP, SDA and FAP OIs and payments, issues automated collection notices and triggers automated benefit reductions for action programs.

**Overissuance Type** identifies the cause of an overissuance.

**Recoupment** is a DHS action to identify and recover a benefit overissuance. PAM 700, p. 1.

## **PREVENTION OF OVERISSUANCES**

#### **All Programs**

DHS must inform clients of their reporting responsibilities and act on the information reported within the standard of promptness. PAM 700, p. 2.

During eligibility determination and while the case is active, clients are repeatedly reminded of reporting responsibilities, including:

- . Acknowledgments on the application forms, **and**
- . Explanation at application/redetermination interviews, **and**
- . Client notices and program pamphlets.

DHS must prevent OIs by following PAM 105 requirements and by informing the client or authorized representative of the following:

- . Applicants and recipients are required by law to give complete and accurate information about their circumstances.
- . Applicants and recipients are required by law to promptly notify DHS of any changes in circumstances within 10 days.
- . Incorrect, late reported or omitted information causing an OI can result in cash repayment or benefit reduction.
- . A timely hearing request can delete a proposed benefit reduction. The client must repay the OI if:
  - .. the hearing request is later withdrawn, **or**
  - .. the State Office of Administrative Hearings and Rules (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

Record on the application the client's comments and/or questions about the above responsibilities. PAM 700, p. 2.

## **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.

The OI period is from February through April, 2009 and August, 2009. During this time, if the claimant's UCB and rental income had been budgeted properly, he would only have been eligible for \$44 in benefits. However, because the claimant's UCB and rental income was not budgeted properly, he received \$752 in FAP benefits. This produces an OI of \$708, which the department is requesting to be recouped.

Department policy provides that a client error OI will be pursued if the amount of the OI is \$125 or more. PAM 700. A department error OI will be pursued if the amount of the OI is \$500 or more. PAM 700.

Department policy requires clients to report all changes within ten days. PAM 105. The department changed their findings prior to the hearing to find the error was agency error, not client error. This would result in the full \$708 being recouped as agency error. The claimant testified that he feels the UCB is department error, but that he did not report the rental income starting back up, so he feels that is client error. However, even if this Administrative Law Judge accepts the claimant's argument, the threshold amount is still met, as the agency error would be \$508.00 and the client error would be \$200. Thus, either way, the threshold for the OI is met and the department is entitled to recoup the amount.

#### DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department properly determined there was an OI of the FAP program in the amount of \$708 from February, 2009 through April, 2009 and for August, 2009 and that the department is entitled to recoup this amount from the claimant.

Accordingly, the department's decision is UPHeld. SO ORDERED.

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

Date Signed: November 4, 2009

Date Mailed: November 5, 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.

SLK 

cc: 