

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

IN THE MATTER OF:



Reg. No: 20094028
Issue No: 3052



Ogemaw County DHS

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the DHS client's (referred to as "the claimant") request for a hearing received on October 22, 2008. After due notice, a telephone hearing was held on July 6, 2011. 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 6, 2011, 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's absence in accordance with Bridges Administrative Manual, Item 725.

ISSUE

Whether Respondent received an overissuance of Family Independence Program (FIP) benefits that the department is entitled to recoup?

FINDINGS OF FACT

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

1. Respondent was receiving FIP benefits at all times pertinent to this hearing.
2. Respondent signed Assistance Application (DHS-1171) on September 29, 2006, acknowledging that she understood her failure to give timely, truthful, complete and accurate information about her

circumstances could result in a civil or criminal action or an administrative claim against her. (Department Exhibit 1). In this application, Respondent sought FIP benefits for her grandson. (Department Exhibit 1).

3. On September 27, 2007, Respondent submitted a new application seeking FIP benefits, among others. Respondent did not report income from child support beginning in August, 2007. (Department Exhibits 5-13).
4. The Department did not inquire about this income but continued to pay FIP benefits from October 2007 to September 2008. (Department Exhibit 13). As a result, the Department did not budget Respondent's child support income when it issued FIP benefits. (Department Exhibits 5 & 6).
5. The department discovered it had erred by failing to verify Respondent's child support income. Verification of child support payments from August 2007 through September 2008 was received by the department on September 30, 2008. (Department Exhibit 3).
6. Respondent received [REDACTED] in FIP benefits during the period of October 2007 through September, 2008. If the income had been properly reported and budgeted by the department, the respondent would not have been eligible to receive FIP benefits. (Department Exhibits 6-8, 10-42).
7. The department failed to verify Respondent's child support income, resulting in a FIP overissuance for the months of October 2007 through September, 2008, in the amount of [REDACTED]. (Department Exhibits 8, 10-42).
8. Respondent submitted a hearing request on October 22, 2008, protesting the debt establishment. (Request for a Hearing).

CONCLUSIONS OF LAW

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 8 USC 601, et seq. The Department of Human Services (DHS or Department) administers the FIP program pursuant to MCL 400.10, et seq., and MAC R 400.3101-3131. The FIP program replaced the Aid to Dependent Children (ADC) program effective October 1, 1996. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), Reference Table Manual (RFT), and the Bridges Reference Manual (BRM).

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. BAM, 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 \$125 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 \$125 retroactive back to August 1, 2008.

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

SDA Only

A client error exists when the client fails to honor an SDA repay agreement after receiving a potential resource. Do not pursue IPV. See BEM 272. BAM 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 \$125 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. BAM 700, p. 7.

DEPARTMENT ERROR EXCEPTIONS

FIP, SDA, CDC and FAP Only

Department error OIs are not pursued if the estimated OI amount is less than \$125 per program.

Exception: There is no threshold limit on CDC **system** errors. The Reconciliation and Recoupment Section (RRS) in central office will recoup these types of overissuances.

The department error threshold was lowered to \$125 retroactive back to August 1, 2008.

FIP and SDA Only

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

FAP Only

Do not recoup OIs caused by the following department errors:

- . The group was certified in the wrong county.

- . The local office failed to have the FAP group sign the application form. BAM 705, pp. 1-2.

MA, SER and ESS Only

Recoupment of department error OIs is not pursued. BAM 705, p. 2.

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 BAM 220, **and**
- . the full negative action suspense period. See BAM 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.

OI Discovery Date

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. BAM, Item 705, pp. 4-5.

OVERISSUANCE CALCULATION

FIP, SDA, CDC and FAP Only

Benefits Received

FIP and SDA Only

The amount of benefits received in an OI calculation includes:

- . regular warrants
- . supplemental warrants
- . duplicate warrants
- . vendor payments
- . administrative recoupment deductions
- . EBT cash issuances
- . EFT payments
- . replacement warrants (use for the month of the original warrant)

Do not include:

- . warrants that have not been cashed
- . escheated EBT cash benefits (SDA only)

BAM, Item 705, p. 5.

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. BAM 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.

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. BAM, Item 705, p. 6.

In this case, Respondent was issued a Notice of Overissuance (DHS-4358) on October 13, 2008. The department is requesting recoupment for an alleged FIP overissuance in the amount of [REDACTED] for the period of August 1, 2007 through September 30, 2008. At the time Respondent reapplied for FIP benefits in September, 2007, she did not indicate that she was receiving child support income. Although Respondent did not initially report her child support income, the department failed to inquire about her income later and failed to budget the income during the OI time period.

Department policy indicates that when a client group receives more benefits than they are entitled to receive, DHS must attempt to recoup the overissuance. BAM 700. In this case, the error was a department error, as the appropriate action was not taken timely by the department staff. Department error overissuances are recouped if the amount is more than [REDACTED]. BAM 700. The overissuance in this case 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 from August 1, 2007 through September 30, 2008.

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 FIP benefits for the time period of August 2008 through September 2008, that the department is entitled to recoup.

The department is therefore entitled to recoup FIP overissuance 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: 7/12/11

Date Mailed: 7/12/11

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]