

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: 2009-11223
Issue No: 4060
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 725.

ISSUE

Did the department properly determine that the respondent received an overissuance of Family Independence Program (FIP) 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 \$1,082.00 in FIP and \$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 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 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

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)

PAM, Item 705, p. 5.

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.

OVERISSUANCE ADJUSTMENTS

Assigned Support

FIP Only

Subtract from the OI all or part of any net assigned **current** support collections retained **by the state for the benefit period**.

- . If the group was ineligible for FIP during the OI period, subtract the net support collections retained.
- . If the group was eligible for part of the FIP issued, subtract the portion of the net support collections retained in excess of the FIP the group was eligible for. PAM, Item 705, p. 7.

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 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. Furthermore, department must pursue debt collection on closed cases unless the combined OI balance is below \$1000. Respondent's FIP OI is \$1,082.00. Department therefore must attempt to recoup this overissuance through debt collection process on inactive cases.

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 FIP benefits in the amount of \$1,082.00 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 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.

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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