

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: 2009-12564
2009-12565
Issue No: 1031, 3020
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
May 7, 2009
Washtenaw 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 May 7, 2009. The claimant personally appeared and provided testimony.

ISSUE

Did the claimant receive an overissuance (OI) of Food Assistance Program (FAP) and Family Independence Program (FIP) benefits during the period of July, 2005 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 applied to receive FIP and FAP benefits on April 12, 2005 (Department Exhibit A9).

2. A budget was completed for the claimant that did not include any child support income (Department Exhibit A2).

3. The claimant was receiving \$617.00 in FIP benefits and \$637.00 in FAP benefits monthly (Department Exhibit A2).

4. A department worker issued an Overissuance Referral (DHS-4701) on January 6, 2006 and April 24, 2006, indicating the claimant had unreported unearned income (child support) (Department Exhibit A1).

5. A department worker from the Office of Child Support (OCS) provided a payment history of the claimant's child support and indicated all payments were sent to the claimant and that, somehow, the child support was not certified by the department (Department Exhibit A3).

6. The department completed corrected monthly FIP and FAP budgets to include the claimant's child support income for July 2005 through June, 2006 (Department Exhibit A7).

7. The corrected budgets were then compared against what had been issued to the claimant. The OI was calculated by taking the amount the claimant was actually issued and deducting the amount the claimant should have been issued (if the child support income had been properly budgeted) (Department Exhibit A7).

8. The total OI for FIP was \$3,686.00 and the total OI for FAP was \$1,590.00 (Department Exhibit A7).

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).

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).

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.

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 representative testified that the department was pursuing this as a department error because there is a possibility that the department failed to certify the child support income and it may not have been due to any action or inaction on the part of the claimant. Department policy indicates that if unable to identify the type of OI, record it as a department error. PAM 700.

Department policy indicates that a department error can be established if the OI amount is \$500.00 or greater. PAM 700. In this case, the amount of the error is \$1590.00 for the FAP program and \$3,686.00 for the FIP program, thus, the department error OI can be established. Department policy requires the department to pursue recoupment for any OI over the threshold amount. PAM 700. Thus, the department is entitled to recoup the OI amounts.

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 there was an OI in the amount of \$1,590.00 FAP and \$3,686.00 FIP and is entitled to recoup the OI amounts.

Accordingly, the department's action is **AFFIRMED. SO ORDERED.**

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

Date Signed: May 12, 2009

Date Mailed: May 14, 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.

SLK [REDACTED]

cc: [REDACTED]