

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: 2009-16788

Issue No: 3020

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

April 22, 2009

Wayne 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.

ISSUE

Did the claimant receive an overissuance (OI) of Food Assistance Program (FAP) benefits during the period of September 1, 2007 through November 30, 2007?

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 was a recipient of FAP benefits when her case became due for recertification.
2. The claimant turned in a new Assistance Application (DHS-1171) on August 2, 2008. The only income she reported on this application was Supplemental Security

Income (SSI) in the amount of \$623.00 each, for herself and two of her children (Department Exhibit #1).

3. A Quarterly MESC Wage Match report run on January 14, 2008, indicated that the claimant was working for [REDACTED], and had earnings in July – September 2007 (Department Exhibit #9).

4. An employment and income verification completed on April 29, 2008, through “The Work Number” found the claimant started working for [REDACTED] on August 2, 2007 and had been working 80 hours per week at \$8.00 hourly. The report also indicated that the claimant was inactive as of November 5, 2007 (Department Exhibit #10).

5. The claimant never reported this income to the department.

6. The claimant received \$300.00 in FAP benefits in September, 2007; \$313.00 in October, 2007 and \$313.00 in November, 2007 (Department Exhibit #11).

7. When the claimant’s income from [REDACTED] was budgeted into the FAP budgets, the claimant had excess income for FAP benefits and should not have been eligible to receive any benefits (Department Exhibit #11).

8. The claimant was overissued \$926.00 in FAP benefits for the months of September through November 2007 (Department Exhibit #12).

#### 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.

#### **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.

The claimant testified that she did work for [REDACTED] from August 2, 2007 through November 5, 2007. The claimant also testified that she did not report this income to the department as required by policy. PAM 105.

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. In this case, the claimant received more benefits than she was entitled to because she failed to report that she was working and receiving income. Thus, the error was a client error. Department policy indicates that a client error can be established if the OI amount is \$125.00 or greater. PAM 700. In this case, the amount of the error is \$926.00 (\$300.00, \$313.00 and \$313.00), thus, the OI can be established. Since the claimant would not

have been eligible to receive any FAP benefits had her income been properly budgeted, the entire amount she received was in error for the months of September through November 2007.

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 \$926.00 for the period of September 2007 through November 2007.

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: April 12, 2009

Date Mailed: April 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.

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 

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