

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: 2009-22699
Issue No: 3052
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
June 16, 2009
Genesee County DHS

ADMINISTRATIVE LAW JUDGE: Ivona Rairigh

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 June 16, 2009. Claimant personally appeared and testified. Also appearing on claimant's behalf was her friend [REDACTED]

ISSUE

Did the department correctly determine that the claimant was overissued Food Assistance Program (FAP) benefits from March, 2006 to May, 2006, due to department's error, and that such benefits must be recouped?

FINDINGS OF FACT

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

1. Claimant applied for FAP on June 1, 2005 and was approved for such benefits from June, 2005 through May, 2006.

2. Department incorrectly coded claimant's case on the computer and the claimant did not receive a Semi Annual Contact form in November, 2005 to return by December, 2005.

3. Department assumes that the claimant would have reported her job change if she received the form in November, 2005. Department did not discover claimant's employment income until March 5, 2007, and her income was verified through The Work Number.

4. Department addressed FAP overissuance for 12 months prior to the date of discovery, and only the months of March, 2006 to May, 2006 were considered in computing FAP overissuance. This computation resulted in determination of \$891 overissuance.

5. Claimant testified at the hearing that she does not believe she even received FAP benefits for the months in question. Hearing record was extended so the department could obtain EBT History report, FAP Purchases by Case Number.

6. Department obtained this report and shared it with the claimant. Department then advised the Administrative Law Judge that the claimant examined the printout, stated she does shop at the listed stores, agreed she received the stated benefits, and provided a written statement to this effect. Claimant's statement and EBT History Report were faxed to the Administrative Law Judge.

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).

Departmental 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.

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.

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

OVERISSUANCE CALCULATION

**FIP, SDA, CDC and FAP Only
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.

Claimant received more FAP benefits than she was entitled to receive due to department error. Policy quoted above clearly requires that the department recoup ineligibly received benefits. Claimant reviewed the FAP printout and states she did indeed receive such benefits for the months in question. Department therefore may proceed with the proposed recoupment action.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department correctly determined that the claimant was overissued FAP benefits for the months of March, 2006 to May, 2006, in the amount of \$891, and that such benefits must be recouped.

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: August 17, 2009

Date Mailed: August 18, 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.

IR [REDACTED]

cc: [REDACTED]