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

IN THE MATTER OF:

[redacted]

Reg. No: 201012542
Issue No: 3020
[redacted] [redacted]
Hearing Date: August 15, 2011
Genesee County DHS

ADMINISTRATIVE LAW JUDGE: Kandra Robbins

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37, 7 CFR 273.16, MAC R 400.3130, and MAC R 400.3178 upon the Respondent's request for hearing. After due notice, a telephone conference hearing was held on August 15, 2011. The Respondent was not present. The Respondent was properly noticed. The hearing was held in her absence.

ISSUE

Did the Department act properly trying to recover a Food Assistance Program (FAP) overissuance that respondent received due to a client error?

FINDINGS OF FACT

This Administrative Law Judge, based upon the evidence on the whole record, finds as material fact:

1. The Respondent completed an Application for Assistance and began receiving FAP benefits in August 2007. (Department Exhibit 1, pgs 1-7).

2. At the time, the Respondent's husband was employed at [redacted] The Respondent reported [redacted] on the application for her husband's income under bonus. She reported his salary as [redacted] (Department Exhibit 1, pg 4).

3. The bonus was never clarified. (Department Hearing Summary).

4. The FAP budget was calculated with a salary of [redacted] for Respondent's husband. The Respondent's husband's bonus income was not budgeted as required. (Department Exhibit 1, pgs 8-13).

5. When the bonus income was properly budgeted, the Respondent has an overissuance in FAP benefits. (Department Exhibit 1, pgs 14-34).

6. Department sent a DHS 4358 Notice of Overissuance to the Respondent on August 13, 2009. (Department Exhibit 1, pgs 40-43).

7. On October 12, 2009, the Department received a Request for Hearing from the Respondent.

CONCLUSIONS OF LAW

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901 - .951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied. MAC R 400.903(1) An opportunity for a hearing shall be granted to an applicant who requests a hearing because of a denial. MAC R 400.903(2)

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. BAM 600. The department will provide an administrative hearing to review the decision and determine the appropriateness. BAM 600.

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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), Reference Table Manual (RFT), State Emergency Relief Manual (ERM) and the Bridges Reference Manual (BRM). Department policy states:

> **BAM 700 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 standards of promptness (SOP). Note: A client or CDC provider may voluntarily repay any program benefits even when there is no overissuance. Refer these situations to the local office fiscal unit.
>
> Definitions The Benefit Recovery System (BRS) is the part of Bridges that tracks all FIP, SDA, CDC and FAP OIs and

payments, issues automated collection notices and triggers automated benefit reductions for active programs.

A claim is the resulting debt created by an overissuance of benefits. The discovery date is determined by the recoupment specialist (RS) for a client or agency error. This is the date the OI is known to exist and there is evidence available to determine the OI type. For an intentional program violation (IPV) the Office of Inspector General (OIG) determines the discovery date. This is the date the referral was sent to the prosecutor or the date that OIG requested an administrative disqualification hearing.

The establishment date for an OI is:

The date the DHS-4358A-D, Repay Agreement, is sent to the client and for an IPV the date the DHS-4357 is sent notifying the client when the disqualification and recoupment will start. 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 type identifies the cause of an overissuance. Recoupment is a DHS action to identify and recover a benefit OI.

BAM 705 Definition All Programs

An agency error OI is caused by incorrect actions (including delayed or no action) by the Department of Human Services (DHS) or the Department of Information and Technology 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 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 an agency error.

BAM 705 AGENCY ERROR EXCEPTIONS FIP, SDA, CDC and FAP

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

OVERISSUANCE PERIOD

All Programs

OI Begin Date FIP, SDA, CDC and FAP

The OI period begins the first month (or first pay period for CDC) when benefit issuance exceeds the amount allowed by policy, or 12 months before the date the OI was referred to the RS, whichever is later. To determine the first month of the OI period for changes reported timely and not acted on, Bridges allows 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 pay period for CDC) before the benefit is corrected.

OVERISSUANCE AMOUNT FIP, SDA, CDC and FAP

The amount of the OI is the benefit amount the group actually received minus the amount the group was eligible to receive.

The Respondent was receiving FAP benefits in 2007. The Respondent's husband was employed at [redacted]. His income included bonus. The income from the bonus was not properly budgeted for March 2007 through August 2008. As a result, the Respondent received a FAP overissuance in the amount of [redacted]

In this case, the Agency incorrectly budgeted the Respondent's income as the result of an error in clarifying the Respondent's income. Department policy requires the recoupment of the overissuance if it is more than [redacted]. In this case, the Respondent was issued [redacted] in FAP benefits but was only entitled to [redacted] in benefit for September 2007 through August 2008. This resulted in a total FAP overissuance of

[redacted]. Because the overissuance amount is over [redacted], the Department must take action to recover the overissuance that Respondent received.

DECISION AND ORDER:

This Administrative Law Judge, based upon the above findings and conclusion of law, decides that the Department established that Respondent received a [redacted] FAP overissuance.

The Department acted properly in trying to recover a FAP overissuance that the Respondent received due to Agency Error.

Respondent is responsible for full restitution of the [redacted] FAP overissuance caused by error.

It is so ORDERED.

/s/

Kandra K. Robbins
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: August 22, 2011

Date Mailed: August 22, 2011

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.

KKR/db

cc: [redacted]