STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF: █████████,

Claimant

Reg. No: 2010-14008
Issue No: 1030
Case No: ████████
Load No: ████████
Hearing Date:
March 30, 2010
Van Buren 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 March 30, 2010. The claimant personally appeared and provided testimony.

ISSUE

Did the claimant receive an overissuance (OI) of Family Independence Program (FIP) benefits September, 2009?

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 receiving FIP benefits when she reported on July 8, 2009 that she had started employment with ████████ at approximately 20 hours per week at $7.50 per hour. (Department Exhibit 1).

2.   On August 26, 2009, the worker prospected the claimant's FIP budget by using

projected income. This resulted in the claimant converting to EFIP benefits with a $10 monthly

benefit. This did not take effect until October, 2009. (Department Exhibit 2).

3.   On November 4, 2009, the claimant submitted paycheck stubs for her

employment. (Department Exhibit 3 – 4).

4.   On November 24, 2009, the department worker budgeted the FIP grant using the

actual paycheck stubs. This resulted in a FIP grant issuance of $47.

5.   The department mailed the claimant a Notice of Overissuance (DHS-4358) that

indicated the claimant had received an overissuance for the month of September, 2009 in the

amount of $356 due to agency error. (Department Exhibit 5 – 9).

6.   The claimant submitted a hearing request on December 7, 2009.

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).

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.

Definitions

The **Automated Recoupment System (ARS)** is part of CIMS that tracks all FIP, SDA and FAP OIs and payments, issues automated collection notices and triggers automated benefit reductions for action programs.

Overissuance Type identifies the cause of an overissuance.

Recoupment is a DHS action to identify and recover a benefit overissuance. PAM 700, p. 1.

PREVENTION OF OVERISSUANCES

All Programs

DHS must inform clients of their reporting responsibilities and act on the information reported within the standard of promptness. PAM 700, p. 2.

During eligibility determination and while the case is active, clients are repeatedly reminded of reporting responsibilities, including:

- Acknowledgments on the application forms, **and**

- Explanation at application/redetermination interviews, **and**

- Client notices and program pamphlets.

DHS must prevent OIs by following PAM 105 requirements and by informing the client or authorized representative of the following:

- Applicants and recipients are required by law to give complete and accurate information about their circumstances.

- Applicants and recipients are required by law to promptly notify DHS of any changes in circumstances within 10 days.
- Incorrect, late reported or omitted information causing an OI can result in cash repayment or benefit reduction.

. A timely hearing request can delete a proposed benefit reduction. The client must repay the OI if:

  .. the hearing request is later withdrawn, **or**

  .. the State Office of Administrative Hearings and Rules (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

Record on the application the client's comments and/or questions about the above responsibilities. PAM 700, p. 2.

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 $125 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 $125 for all programs with a retroactive date of August 1, 2008. All department errors with an overissuance of $125 will be recouped.

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.

MA, SER and ESS Only

Recoupment of department error OIs are not pursued. PAM 700, pp. 3-4.

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 $125 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.

The alleged OI period is the month of September, 2009. While there is no dispute that the claimant reported her income in a timely manner, the department did fail to budget the income in a timely manner. Thus, the error is a department error.

Department policy changed on March 1, 2010 with a BRIDGES interim bulletin (BPB 2010-007). The department error threshold was lowered to $125 for all programs with a retroactive effective date of August 1, 2008. Therefore, the department must recoup any department error with a threshold amount of $125 or more.

In this case, if the department had properly budgeted the claimant's case, she would not have received the full $403 FIP grant for September, 2009. When the department budgeted the actual income (averaged from the claimant's submitted paycheck stubs), the claimant was

eligible for a $47 FIP grant. Thus, the amount overissued to the claimant in September is $356.

Since this is over the threshold amount of $125, the department is entitled to recoup the OI.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department properly determined there was an OI (department error) of $356 in September, 2009 and that the department is entitled to recoup this amount from the claimant.

Accordingly, the department's decision is UPHELD. SO ORDERED.

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

Date Signed: April 21, 2010

Date Mailed: April 22, 2010

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 90 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing 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

cc: