

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: 2010-15114
Issue No: 3052
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
March 4, 2010
Kent 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 4, 2010. The claimant personally appeared and provided testimony.

ISSUE

Did the claimant receive an overissuance (OI) of Food Assistance Program (FAP) benefits for the month of October, 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 reported on September 15, 2009, that she had been living with her mother since August 1, 2009.
2. On October 15, 2009, the claimant provided check stubs from her mother's employment. (Department Exhibit 2 – 5).

3. When the claimant's mother's income was budgeted, the claimant was excess income to receive FAP benefits.

4. The claimant had already received \$367 for the month of October, 2009, prior to the change being budgeted. (Department Exhibit 10).

5. The department issued the claimant a Notice of Overissuance on December 10, 2009, informing the claimant that she had been overissued \$367 for the month of October, 2009.

6. The claimant submitted a hearing request on December 18, 2009.

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.

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 agency error threshold was lowered to \$125 for all programs with a retroactive effective date of August 1, 2008. All agency errors with an overissuance of \$125 or more will be recouped.

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 OI period is the month of October, 2009. The claimant reported in September, 2009 that she was living with her mother as of August 1, 2009. The claimant is under the age of 22 and thus, must be included in the same FAP group as her mother. The department requested paycheck stubs from the claimant's mother. These were received on October 15, 2009. Once the claimant's mother's income was budgeted into the FAP budget, the claimant was excess income to receive FAP benefits. This produces an OI of \$367, which the department is requesting to be recouped.

Department policy provides that an agency error OI will be pursued if the amount of the OI is \$125 or more. PAM 700. In this case, the amount of the OI is \$367, so it will be recouped as it exceeds the threshold amount.

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 of FAP benefits in the amount of \$367 in October, 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: March 16, 2010

Date Mailed: March 17, 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 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.

SLK 

cc:

