STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF: ███████████,   Reg. No: 2010-22632
                                                            Issue No: 1030, 3020
                        Claimant   Case No: ████████
                                                            Load No: ████████
                                                            Hearing Date:
                                                            April 6, 2010
                                                            Kalamazoo County DHS

ADMINISTRATIVE LAW JUDGE: Gary F. Heisler

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 hearing was held on

April 6, 2010. Claimant appeared and testified.

ISSUES

Did the Department of Human Services over-issue Claimant $██ of Family

Independence Program (FIP) benefits between October 1 and 31, 2009 that must be recouped?

Did the Department of Human Services over-issue Claimant $██ of Food Assistance

Program (FAP) benefits between October 1 and 31, 2009 that 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 was an ongoing recipient of Family Independence Program (FIP) and

Food Assistance Program (FAP) benefits. Claimant informed the Department that her daughter would be leaving her (Claimant's) household and that she (Claimant) would be moving to another county.

> (2)   On September 9, 2009, Claimant moved and her case file was transferred to the new county. Claimant's daughter was not removed from her (Claimant's) Family Independence Program (FIP) and Food Assistance Program (FAP) cases.

> (3)   On September 21, 2009, Claimant contacted her case worker in the new county and reiterated that her daughter was no longer in the household.

> (4)   On November 6, 2009, the change in group composition was entered into the BRIDGES computer program. Claimant was sent a Notice of Over-issuance on her Family Independence Program (FIP) case for the period of October 2009 and a Notice of Over-issuance on her Food Assistance Program (FAP) case for the period of October 2009.

> (5)   On November 17, 2009, and November 18, 2009 Claimant submitted requests for hearing about her Family Independence Program (FIP) and Food Assistance Program (FAP) cases.

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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

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) and the Program Reference Manual (PRM).

Department policy provides the following guidance for case workers. The Department's policies are available on the internet through the Department's website.

AGENCY ERROR OVERISSUANCES

DEPARTMENT POLICY

All Programs

Recoupment policies and procedures vary by program and overissuance (OI) type. This item explains agency error OI processing and establishment.

BAM 700 explains OI discovery, OI types and standards of promptness.

BAM 715 explains client error, and BAM 720 explains Intentional Program Violations.

Definition

All Programs

An **agency error** OI is caused by incorrect actions (including delayed or no action) by DHS or DIT 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.

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.

FIP, SDA and FAP Only

The agency error threshold was lowered to $125 from $500 with a retroactive date of August 1, 2008. If the agency error includes some prior months to August 2008 then the $500 threshold applies. If all months of the error fall after August 2008, the $125 threshold applies.

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.

OI Discovery Date

FIP, SDA, CDC and FAP Only

The OI discovery date for an agency error is the date the RS can determine there is an agency error.

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.

FAP Only

If the agency error involves two or more FAP groups which should have received benefits as one group, determine the OI amount by:

- Adding together all the benefits received by the groups that must be combined, and

- Subtracting the correct benefits for the one combined group.

OVERISSUANCE CALCULATION

FIP, SDA, CDC and FAP

Benefits Received FIP, SDA and CDC Only

The amount of benefits received in an OI calculation include:

- Regular warrants.

- Supplemental warrants.

- Duplicate warrants.

- Vendor payments.

- Administrative recoupment deductions.

- EBT cash issuances.

- EFT payments.

- Replacement warrants (use for the month of the original warrant).

Do not include:

- Warrants that have not been cashed.

- Escheated EBT cash benefits (SDA only).

Warrant history is obtained from Bridges under benefit issuance. (See RFT 293 and RFT 294.)

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 in Bridges under benefit issuance.

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 activities or child support. (BAM 705)

When Claimant's benefit group no longer contained her daughter, Claimant was no longer eligible for Family Independence Program (FIP) benefits. There was clearly an over-issuance of Family Independence Program (FIP) benefits. There are two reported changes that would affect Claimant's Food Assistance Program (FAP) benefits. Having one less person in the benefit group reduces the amount of benefits if all else stays the same. In this case there were other changes in Claimant's financial eligibility budget because her shelter expenses changed

when she moved. Determining what, if any, over-issuance occurred in Food Assistance Program (FAP) benefits requires doing an accurate financial eligibility budget using all the changes to Claimant's circumstances.

The over-issuance was caused by agency error because Claimant reported the pending changes in a timely manner. Claimant reported the changes on September 9, 2009, and the standard of promptness for change processing combined with the full required negative action period, expired on September 29, 2009. In accordance with Department policy the over-issuance period would begin on October 1, 2009, for both programs. The changes were applied to Claimant eligibility beginning November 1, 2009. In accordance with Department policy the over-issuance period was between October 1 and 31, 2009.

In this case Claimant was actually issued $███ of Family Independence Program (FIP) benefits during October 2009. Claimant's group composition and income prior to the reported changes made her eligible for $███ of Family Independence Program (FIP) benefits. In this specific case $█ of Claimant's Family Independence Program (FIP) benefits were withheld as recoupment for a previous over-issuance. In accordance with the policy cited above the over-issuance amount of Family Independence Program (FIP) benefits includes administrative recoupment deductions. Because Claimant was not eligible for any Family Independence Program (FIP) benefits in October 2009 she was over-issued $███ of Family Independence Program (FIP) benefits during October 2009.

During the month of October 2009 Claimant was issued $███ in Food Assistance Program (FAP) benefits. During the hearing the Food Assistance Program (FAP) financial eligibility budget was completely reviewed and Claimant verified the accuracy of her income and expenses during October 2009 which are used in determining the amount of Food Assistance

Program (FAP) benefits she was actually eligible for. That financial eligibility budget shows

that Claimant was eligible for $█ of Food Assistance Program (FAP) benefits for October 2009.

(It is noted that Claimant was eligible for more Food Assistance Program (FAP) benefits in

November 2009 because the unearned income of Family Independence Program (FIP) benefits

was no longer being received and Claimant had an increase in her shelter expenses which began

November 1, 2009.) The over-issuance of Food Assistance Program (FAP) benefits for October

2009 is $██ - $██ = $███

The Department policy cited above specifies that an agency error over-issuance

exceeding $125 must be recouped.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of

law, decides Department of Human Services over-issued Claimant $██ of Family Independence

Program (FIP) benefits and $██ of Food Assistance Program (FAP) benefits between October 1

and 31, 2009 that must be recouped.

It is ORDERED that the actions of the Department of Human Services, in this matter, are

UPHELD.

/s/_____
Gary F. Heisler
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed:_ April 13, 2010_____

Date Mailed:_ April 13, 2010_____

2010-22632/GFH

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.

GFH/alc

cc: