STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARMENT OF HUMAN SERVICES

IN THE MATTER OF:

Reg. No: 2010-27391
Issue No: 4013
Case No:
Load No:
Hearing Date:
September 9, 2010
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Jonathan W. Owens

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 September 9, 2010. Claimant appeared and testified.

ISSUE

Did the Department properly determine the Claimant received an over issuance of State Disability Assistance (SDA)?

FINDINGS OF FACT

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

1.   On August 5, 2009, the Claimant returned to work.

2.   The Claimant reported her employment to the Department timely.

3.   On November 21, 2009, the Department updated the system and SDA was put into negative action closing effective December 31, 2009.

4.   The Department Determined the Claimant received an over issuance of benefits for the month of December due to agency error.

5.   On August 18, 2008, the Claimant requested a hearing.

CONCLUSIONS OF LAW

The State Disability Assistance (SDA) program which provides financial assistance for disabled persons is established by 2004 PA 344. The Department of Human Services administers the SDA program pursuant to MCL 400.10, et seq., and MAC R 400.3151-400.3180. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

In the present case, Claimant filed a hearing request on January 12, 2010, regarding the Department's attempt to recoup SDA benefits issued in December 2009. The Department presented a copy of the transaction history for the Claimant's BRIDGE card. This transaction history showed SDA amounts being placed on the Claimant's BRIDGE card in October, November, and December 2009. The BRIDGES card indicated transactions where the SDA benefits were in fact used for all 3 months.

The Claimant testified she never received the benefits in question. Further, she properly notified the Department of her employment shortly after starting employment on August 5, 2009.

> Relevant policy BAM 700:
>
> **Agency Error**
>
> **All Programs**
>
> An agency error OI is caused by incorrect action (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.
>
> **FIP, SDA, CDC and FAP**

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

The Department has demonstrated the Claimant received an over issuance of SDA benefits in excess of $125. However, the Department not only committed an error by entering the employment change late into the system, the Department also appears to have caused an error by not entering the proper date Claimant notified the Department of the Change.

> Relevant Policy BEM 505, p. 9:
>
> **Income Increase**
>
> **FIP, SDA, RAP and FAP**
>
> For income increases that result in a benefit decrease, action must be taken and notice issued to the client within the Standard of Promptness (FAP - 10 calendar days, **FIP/SDA - 15 workdays**). The effective month is the first full month that begins after the negative action effective date.
>
> On 11/21 a FAP client reports starting employment on 11/14. Action must be taken to affect January benefits. (Allow for 10 calendar days processing and timely suspense period.)
>
> Relevant Policy BAM 220, p. 6-7:
>
> **EFFECTIVE DATE OF CHANGE**
>
> **All Programs**
>
> Bridges evaluates the following dates entered in data collection to determine positive action dates, negative action dates and effective dates:
>
> - Circumstance start/change date.
> - Reported on.
> - Verification received on.
> - Date client became aware.
>
> Relevant Policy BAM 705, p.4-5:
>
> **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.
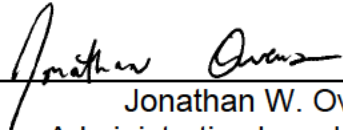
The Department properly determined an over issuance of SDA benefits occurred based upon an agency error. However, the Department appears to have computed the amount of the over issuance incorrectly based upon the above cited policy the amount to be recouped would be greater than the $269 requested.

<u>DECISION AND ORDER</u>

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department of Human Services was correct in their determination an over issuance occurred however the amount of the over issuance is not correct.

Accordingly, it is ORDERED that the Department's decision in this regard be and is hereby REVERSED, the Department shall go back and complete a new over issuance

determination using the date the Claimant reported the employment and calculate benefits according to policy to determine the actual amount to be recouped.

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Jonathan W. Owens
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 09/22/10

Date Mailed: 09/22/10

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.

JWO/dj

cc: