

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: 2010-27573
Issue No: 3052
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
April 21, 2010
Eaton 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 conference hearing was held on April 21, 2010. The claimant did appear and provided testimony via a three-way telephone call with the county office.

ISSUE

Did the claimant receive an overissuance (OI) of Food Assistance Program (FAP) benefits from April, 2009 through December, 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 had a redetermination due in the month of March, 2009. The claimant returned the redetermination form did not indicate the family had any child support responsibility. (Department Exhibit 1 – 3)

2. When the department budgeted the claimant's FAP benefits, they did not remove the child support deduction (\$374) from the budget. (Department Exhibit 6)

3. On February 17, 2010, the department ran a consolidated inquiry search and verified that the claimant's household was not paying any child support expenses. (Department Exhibit 8, 10)

4. On August 19, 2009, the claimant submitted a Semi-Annual Contact Report and again indicated no child support expenses. (Department Exhibit 12 – 13)

5. The department again failed to remove the child support deduction from the budget. (Department Exhibit 15 – 16)

6. The case was referred to the recoupment specialist, who removed the child support deduction for each of the months, April through December, 2009. When the deduction was removed, the claimant would have been eligible to receive only \$4011 in FAP benefits. The claimant had been issued \$4292 in benefits, causing a \$281 overissuance. (Department Exhibit 19 – 39)

7. The claimant was sent a Notice of Overissuance (DHS-4358-A) on February 17, 2010, indicating that the claimant received an overissuance of \$281 due to an agency error. (Department Exhibit 42 – 46)

8. The claimant submitted a hearing request on January 27, 2010.

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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) 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. BAM, 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. BAM 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. BAM 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 BAM 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 BAM 600

Record on the application the client's comments and/or questions about the above responsibilities. BAM 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.

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 BAM 705 for examples.

MA, SER and ESS Only

Recoupment of department error OIs are not pursued. BAM 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 BAM 600. BAM 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. BAM 700, p. 7.

The OI period is alleged to be April, 2009 through December, 2009. The claimant reported on the Redetermination form and the Semi-Annual Contact form that no child support was being paid. Thus, the claimant met her reporting responsibilities. However, the department did not notice the child support deduction needed to be removed from the budget and did not act on the information until January, 2010. If the claimant's child support expense had been removed when reported, the claimant only would have been eligible to receive \$4011 in FAP benefits. Instead, the claimant received \$4292 during the OI period. This resulted in a total overisurance of \$281.

Department policy provides that a department error OI will be pursued if the amount of the OI is \$125 or more. BAM 700. This error is department error, as the claimant timely reported the change, but the department did not get it budgeted until January, 2010. In this case, the amount of the OI is \$281, so it must be recouped from the claimant, as it meets 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 \$281 from April, 2009 through December, 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

2010-27573/SLK

Date Signed: April 26, 2010

Date Mailed: May 3, 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 [REDACTED]

cc: [REDACTED]