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: 2010-44982
Issue No: 1030; 3052
Case No: ████████
Load No: ████████
Hearing Date:
August 25, 2010
Saginaw 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 August 25, 2010. The claimant did personally appear and provide testimony.

ISSUE

Did the claimant receive an overissuance (OI) of Food Assistance Program (FAP) and Family Independence Program (FIP) benefits that the department is entitled to recoup?

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 applied for FIP and FAP on January 16, 2009. (Department Exhibit 2 – 35)

2.   The claimant reported she was earning income from ██████████████ in June, 2009.

3.   The department did not budget the claimant's income until October, 2009.

(Department Exhibit 73 – 74)

4.   Once the department budgeted the claimant's income, the department determined

the claimant had been overissued FIP and FAP benefits from June, 2009 through

September, 2009. The department found the claimant was overissued $1131 in FIP benefits and

$1329 in FAP benefits. (Department Exhibit 46 – 63)

5.   The claimant was issued a Notice of Overissuance (DHS-4358) on

February 10, 2010. (Department Exhibit 36 – 45)

6.   The claimant submitted a hearing request on April 6, 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).

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).

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 PAM 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 claimant is disputing the department's determination that she received an overissuance of FIP and FAP benefits that the department is attempting to recoup. The claimant testified that she reported the income timely and shouldn't be responsible if the department failed to budget the income.

Department policy indicates that when a client group receives more benefits than they are entitled to receive, DHS must attempt to recoup the overissuance. BAM 700. Overissuances can be due to client error or department error. BAM 700. In this case, the department indicates that it was department error because the department failed to properly budget the claimant's reported income.

The claimant received $1141 in FIP benefits for the months of June, 2009 through September, 2009. If the income had been properly budgeted the claimant would only have been eligible to receive $10 in FIP benefits. During this same period, the claimant received $1345 in FAP benefits, but was only eligible to receive $16. This results in a $1131 FIP overissuance and a $1329 FAP overissuance.

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 reported the change, but the department did not get it budgeted timely. In this case, the amount of the OI is $1131 for FIP and $1329 for FAP, so it must be recouped from the claimant.

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 overissuance of $1131 in FIP benefits and $1329 in FAP benefits for the period of June, 2009 through 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: September 1, 2010

Date Mailed: September 2, 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.

SLM

cc: