

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 2010-54393

Issue No: 1030, 3052

[REDACTED]

Hearing Date:

October 21, 2010

Kent 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 October 21, 2010. Claimant appeared and testified.

**ISSUES**

Did the Department of Human Services over-issue Claimant [REDACTED] of Family Independence Program (FIP) benefits during the period October 1, 2009 through October 31, 2009, which the Department is entitled to recoup?

Did the Department of Human Services over-issue Claimant [REDACTED] of Food Assistance Program (FAP) benefits during the period October 1, 2009 through October 31, 2009, which 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) Claimant was an ongoing recipient of Family Independence Program (FIP) and Food Assistance Program (FAP) benefits.
- (2) On July 9, 2009, Claimant reported she obtained employment.
- (3) On October 6, 2009, the Department included Claimant's income from employment in her financial eligibility budgets for Family Independence

Program (FIP) and Food Assistance Program (FAP) benefits. The change was pending to take effect on November 1, 2009.

- (4) On October 28, 2009, Claimant was sent two separate over-issuance notices, one for Family Independence Program (FIP) and one for Food Assistance Program (FAP).
- (5) On November 6, 2009, Claimant submitted a request for hearing about both over-issuances.

### **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).

In this case the Department has specified that the over-issuance is an agency error. Department policy provides the following guidance for case workers. The Department's policies are available on the internet through the Department's website.

### **BAM 705 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 the Department of Human Services (DHS) or the Department of Information and Technology 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.

### **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.

In this case it is undisputed that Claimant reported the income in a timely manner. The policy cited above clearly states that any over-issuance more than [REDACTED] must be recouped. The exhibits and budgets submitted by the Department have been checked and do show that Claimant was over-issued both Family Independence Program (FIP) and Food Assistance Program (FAP) benefits in excess of [REDACTED]

### DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the Department of Human Services over-issued Claimant [REDACTED] of Family Independence Program (FIP) benefits and [REDACTED] of Food Assistance Program (FAP) benefits during the period October 1, 2009 through October 31, 2009, which the Department is entitled to recoup?

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

/s/

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

Date Signed: 10/26/2010

Date Mailed: 10/26/2010

**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.

[REDACTED]

[REDACTED]

[REDACTED]