

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: 2010-16851  
Issue No: 1030  
Case No: [REDACTED]  
Load No: [REDACTED]  
Hearing Date:  
April 27, 2010  
Monroe 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 April 27, 2010. The claimant did personally appear and provide testimony.

ISSUE

Did the claimant receive an overissuance (OI) of Family Independence Program (FIP) benefits in November and 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 was participating with WF/JET and receiving FIP benefits, when she reported on September 11, 2009 she had gained part-time employment. The claimant reported that she was earning \$11.15 per hour. (Department Exhibit 1)
2. A Verification of Employment (DHS-38) was completed and returned to the department on October 30, 2009. (Department Exhibit 3 – 4)

3. The department did not get the claimant's new income budgeted into the FIP case until December (taking affect in January, 2010). Although the claimant was issued \$403 in FIP benefits for November and December, 2009, she was only eligible to receive \$10 in FIP benefits. (Department Exhibit 8, 10)

4. The claimant was mailed a Notice of Overissuance (DHS-4358-A) on December 4, 2009 that informed her of the \$786 total OI for November and December, 2009. (Department Exhibit 5 – 9)

5. The claimant submitted a hearing request on December 16, 2009.

### 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).

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.

#### **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 PAM 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 claimant gained part-time employment in September, 2009. The claimant timely reported the employment to the department, but the department failed to budget the new income until December, 2009, affecting the January, 2010 issuance. This caused the claimant to receive a FIP issuance of \$403 for both November and December, 2009. If the income had been budgeted properly, the claimant would only have been eligible to receive \$10 each month. This causes an overissuance of \$786. The error is through no fault of the claimant and is considered department error.

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 in time to affect the November and December, 2009 issuances. In this case, the amount of the OI is \$786, 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 OI of \$786 for November and 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

Date Signed: May 6, 2010

Date Mailed: May 11, 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.

SLK 

cc: 