

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: 2010-20193
Issue No: 3052
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
March 16, 2010
Genesee 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 March 16, 2010. The claimant personally appeared and provided testimony.

ISSUE

Did the claimant receive an overissuance (OI) of Food Assistance Program (FAP) benefits from October, 2006 through March, 2007?

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 FAP benefits on June 14, 2006. On that application, the claimant reported that she worked at Shell gas station. (Department Exhibit 1).

2. The department mailed the claimant an Eligibility Notice, informing her that she was approved for \$78 in monthly FAP benefits. The claimant was also informed that if her earnings exceeded \$1037, that she must report this to her worker. (Department Exhibit 2).

3. On September 12, 2006, the claimant called the department and indicated that she had quit her job at [REDACTED] and began working at [REDACTED] 30 – 35 hours per week. The claimant was mailed a Verification Checklist requesting a completed Verification of Employment (DHS-38) be completed and returned to the department. (Department Exhibit 3)

4. The department removed the income from [REDACTED] gas station and budgeted the income from Speedway. The claimant's new monthly FAP benefit was \$116. The claimant was informed that if her income exceeded \$1037, she was to report it to the department. (Department Exhibit 2, 4).

5. A Wage Match report (UB-120) run by the department showed the claimant received wages from both [REDACTED] and [REDACTED] in July – September, 2006 and that her earnings were \$3221 for the two employers for that quarter. (Department Exhibit 5).

6. A Verification of Employment from [REDACTED] shows that the claimant worked there from June 21, 2006 through September 29, 2006. (Department Exhibit 6).

7. Information from “the Work Number” showed that the claimant began her employment with [REDACTED] on August 14, 2006 and continued to present. (Department Exhibit 7).

8. The claimant was issued \$744 in FAP benefits from October, 2006 through March, 2007. If the claimant's income had been budgeted properly, she would only have been eligible to receive \$69 in monthly benefits, resulting in an OI of \$675. (Department Exhibit 10).

9. The claimant submitted a hearing request on February 2, 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 Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) 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. PAM, 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. PAM 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. PAM 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 PAM 600

Record on the application the client's comments and/or questions about the above responsibilities. PAM 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 \$500 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 department error threshold was lowered to \$500 effective April 1, 2005 and retroactive back to September 1, 2003. If the department error includes September 2003, the \$500 threshold applies. If all months of the error are prior to September 2003, the \$1,000 threshold applies.

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. PAM 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 PAM 600. PAM 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 \$500 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.
PAM 700, p. 7.

The alleged OI period is from October, 2006 through March, 2007. During this time, if the claimant's employment income had been budgeted properly, she would have been eligible for less FAP benefits than she actually received.

Department policy provides that a client error OI will be pursued if the amount of the OI is \$125 or more. PAM 700. A department error OI will be pursued if the amount of the OI is \$500 or more. PAM 700. In this case, the amount of the OI is \$675, so it will be recouped whether it is client error or department error.

Department policy requires clients to report all changes within ten days. PAM 105. This would include sources of income, such as employment income. The claimant had earnings for the FAP budget and was a simplified reporter. This means that the claimant only needed to notify the department if her earnings exceeded a certain amount. The simplified reporting amount (as noticed in several Eligibility Notices mailed to the claimant) was \$1037. Thus, the claimant only needed to report changes in income for each month that exceeded that amount.

When the claimant's income is examined, it shows that the claimant exceeded this amount during the entire OI period. For example, the claimant had earnings of \$1088.42 for October, 2006; \$1492.94 for November, 2006; \$1660.93 for December, 2006; 1800.01 for January, 2007; \$1348.04 for February, 2007; and \$1573.08 for March, 2007. The claimant failed to report that her income had exceeded the simplified reporting limit for each of these months.

Thus, it would appear that this would be a client error. However, the point is really moot as policy requires the error amount to be recouped no matter if it is a client error or department error, as the dollar amount meets the threshold for either client error or department error.

If the claimant's income had been correctly budgeted, the claimant would have received \$675 less in FAP benefits. The department has budgeted the claimant's actual income from the OI period and provides the budgets to show the OI of \$675.

Thus, this Administrative Law Judge finds that the claimant did fail to report her income had exceeded the simplified reporting limits and was overissued \$675 in FAP benefits, which the department is entitled to recoup.

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 \$675 from October, 2006 through March, 2007 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: April 1, 2010

Date Mailed: April 6, 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]