

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: 2010-24647  
Issue No: 3052  
Case No: [REDACTED]  
Load No: [REDACTED]  
Hearing Date:  
April 14, 2010  
St. Clair 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 14, 2010. The claimant did personally appear and provide testimony.

ISSUE

Did the claimant receive an overissuance (OI) of Food Assistance Program (FAP) benefits from August, 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 applied for FAP benefits in August, 2009. (Department Exhibit 39 – 54)
2. The department failed to budget the claimant's husband's employment earnings. (Department Exhibit 2 – 3)

3. The claimant received \$3047 in FAP benefits during the alleged OI period of August, 2009 through December, 2009 and, if her husband's employment income had been budgeted properly, she would only have been eligible to receive \$80. (Department Exhibit 2 – 3)

4. The claimant submitted a hearing request on December 23, 2009.

### 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 \$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 department error overissuance threshold was lowered to \$125 for all programs with a retroactive effective date of August 1, 2008. All department 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. 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 \$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. PAM 700, p. 7.

The OI period is from August, 2009 through December, 2009. During this time, if the claimant's husband's employment income had been budgeted properly, she would only have been eligible for \$80 in benefits. However, because the claimant's husband's employment income was not budgeted properly, she received \$3047 in FAP benefits. This produces an OI of \$2967, which the department is requesting to be recouped.

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 \$125 or more. PAM 700. In this case, the amount of the OI is \$2967, so it will be recouped whether it is client error or department error.

There is no dispute in this matter, that the error is a department error. The claimant duly reported the income and provided paycheck stubs and a Verification of Employment. The case worker simply failed to budget the employment income. Thus, the overissuance is through no fault of the claimant. Department policy requires a department error to be recouped if the error is

\$125 or more, so in this case, recoupment must be ordered, as the threshold amount is met for department error.

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 \$2967 from August, 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

Date Signed: April 26, 2010

Date Mailed: April 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 

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