

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: 2010-26251  
Issue No: 6019  
Case No: [REDACTED]  
Load No: [REDACTED]  
Hearing Date:  
August 17, 2010  
Muskegon County DHS

ADMINISTRATIVE LAW JUDGE: Suzanne L. Morris

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 17, 2010. The claimant personally appeared and provided testimony. The record was left open until August 31, 2010 to allow the claimant to submit evidence of her residence during the alleged overissuance period.

ISSUE

Did the claimant receive an overissuance (OI) of Child Development and Care (CDC) 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 was receiving FAP benefits when the department received information that the claimant was residing with her children's father. (Department Exhibit 14-18)

2. The claimant had received CDC benefits for her children in April, 2009 through July, 2009. (Department Exhibit 12 – 13)

3. The department alleges the children’s father began residing with the claimant in April, 2009, which made the claimant ineligible to receive CDC benefits from April 12, 2009 through July 18, 2009. The department indicates there is an OI of \$2068.79 that was overissued during this time. (Department Exhibit 1 – 4)

4. The claimant submitted a hearing request on December 2, 2009.

### CONCLUSIONS OF LAW

The Child Development and Care program is established by Titles IVA, IVE and XX of the Social Security Act, the Child Care and Development Block Grant of 1990, and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The program is implemented by Title 45 of the Code of Federal Regulations, Parts 98 and 99. The Department of Human Services (DHS or department) provides services to adults and children pursuant to MCL 400.14(1) and MAC R 400.5001-5015. Department policies are contained 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.

#### **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 threshold was lowered to \$125 retroactive back to August 1, 2008.

### **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.

### **SDA Only**

A client error exists when the client fails to honor an SDA repay agreement after receiving a potential resource. Do not pursue IPV. See BEM 272. BAM 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.

## **DEPARTMENT ERROR EXCEPTIONS**

### **FIP, SDA, CDC and FAP Only**

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. The Reconciliation and Recoupment Section (RRS) in central office will recoup these types of overissuances.

The department error threshold was lowered to \$125 retroactive back to August 1, 2008.

### **FIP and SDA Only**

Treat an OI due to excess assets as a department error **unless** IPV caused it.

### **FAP Only**

Do not recoup OIs caused by the following department errors:

- The group was certified in the wrong county.
- The local office failed to have the FAP group sign the application form. BAM 705, pp. 1-2.

### **MA, SER and ESS Only**

Recoupment of department error OIs is not pursued. BAM 705, p. 2.

## **OVERISSUANCE PERIOD**

### **FIP, SDA, CDC and FAP Only**

#### **OI Begin Date**

The OI period begins with the first month (or first period for CDC) when benefit issuance exceeds the amount allowed by policy, or 12 months before the discovery date, whichever is later.

To determine the first month of the OI period for changes reported timely and not acted on, allow 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 payment period for CDC) before the month when the benefit is corrected.

### **OI Discovery Date**

#### **FIP, SDA, CDC and FAP Only**

The OI discovery date for a department error is the date the RS can determine there is a department error. BAM, Item 705, pp. 4-5.

### **OVERISSUANCE CALCULATION**

#### **FIP, SDA, CDC and FAP Only**

#### **Benefits Received**

#### **FIP and SDA Only**

The amount of benefits received in an OI calculation includes:

- regular warrants
- supplemental warrants
- duplicate warrants
- vendor payments
- administrative recoupment deductions
- EBT cash issuances
- EFT payments
- replacement warrants (use for the month of the original warrant)

Do not include:

- warrants that have not been cashed
- escheated EBT cash benefits (SDA only)

BAM, Item 705, p. 5.

### **FAP Only**

The amount of EBT benefits received in the OI calculation is the **gross** (before Automated Recoupment (AR) deductions) amount issued for the benefit month.

FAP participation is obtained on CIMS on the IATP screen.

If the FAP budgetable income included FIP/SDA benefits, use the grant amount actually received in the OI month. Use the FIP benefit amount when FIP closed due to a penalty for non-cooperation with employment-related activity or child support. BAM 705, p. 6.

### **Determining Budgetable Income**

#### **FIP, SDA, CDC and FAP Only**

If improper budgeting of income caused the OI, use actual income for the past OI month for that income source.

Convert income received weekly or every other week to a monthly amount.

**Exception:** For FAP only, income is not converted from a wage match for any type of OI.

Any income properly budgeted in the issuance budget remains the same in that month's corrected budget.

### **FAP Only**

If the FAP budgetable income included FIP/SDA benefits, use the grant amount actually received in the OI month. Use the FIP benefit amount when FIP closed due to a penalty for non-cooperation in an employment-related activity. BAM, Item 705, p. 6.

The claimant was issued a Notice of Overissuance (DHS-4358) on November 23, 2009. The department is requesting recoupment for an alleged CDC overissuance in the amount of \$2068.79 for the period of April 12, 2009 through July 18, 2009.

The claimant testified that she disagrees with part of the department's attempt to recoup the money from her. The claimant testified that she does not dispute the recoupment for June and July, 2009. However, she indicates that she didn't move in with her children's father until the end of May, 2009, so she was eligible for CDC services prior to June, 2009.

The record was left open for the claimant to submit information from her landlord indicating the dates that her children's father resided with her. The statement presented by [REDACTED] indicates that the claimant did not reside with [REDACTED] until May 26, 2009. This Administrative Law Judge finds that this information is accurate and that the claimant was eligible to receive CDC services until this date, when she moved in with her children's father. Thus, the proper OI period would be June 7, 2009 through July 18, 2009. This results in an OI of \$907.90.

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. In this case, the error was a client error, as the information was not properly reported to the department. Client error overissuances are recouped if the amount is more than \$125. BAM 700. The overissuance in this case is \$907.90, so it must be recouped by the department.

#### DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department properly determined that the claimant received an overissuance of CDC benefits that the department is entitled to recoup. However, the

appropriate OI period is June 7, 2009 through July 18, 2009 in the amount of \$907.90. The department shall change the OI period and amounts accordingly.

The department's actions are UPHeld in part and REVERSED in part.

SO ORDERED.

/S/

\_\_\_\_\_  
Suzanne L. Morris  
Administrative Law Judge  
for Ismael Ahmed, Director  
Department of Human Services

Date Signed: September 21, 2010

Date Mailed: September 22, 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: 