

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: 2010-36453

Issue No: 3052

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

June 17, 2010

Branch 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 June 17, 2010. Claimant appeared and testified.

ISSUE

Did the Department of Human Services properly determine that Claimant was over-issued \$294 of Food Assistance Program (FAP) benefits 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 is an ongoing recipient of Food Assistance Program (FAP) benefits.

Claimant's husband, [REDACTED] was receiving Unemployment Compensation Benefits (UCB) between May 2009 and February 2010. The BRIDGES computer program did not pick up the extension of [REDACTED]

(2) On July 27 2009, and August 28, 2009, Claimant submitted a Redetermination Form (DHS-1010). Claimant properly reported [REDACTED] unemployment benefits.

(3) On January 25, 2010, the Department entered [REDACTED] Unemployment Compensation Benefits (UCB) onto the case because they were not reflected in the computer screens. Claimant was sent a Notice of Over-Issuance for the period of February 1 – 28, 2010.

(4) On February 22, 2010, Claimant submitted a request for hearing.

(5) On March 1, 2010, Claimant's Food Assistance Program (FAP) benefits were reduced.

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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

Department policy provides the following guidance for case workers. The Department's policies are available on the internet through the Department's website.

AGENCY ERROR OVERISSUANCES

DEPARTMENT POLICY

All Programs

Recoupment policies and procedures vary by program and over-issuance (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 DHS or DIT 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.

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.

FAP Only

If the agency error involves two or more FAP groups which should have received benefits as one group, determine the OI amount by:

- Adding together all the benefits received by the groups that must be combined, and

- Subtracting the correct benefits for the one combined group.

OVERISSUANCE CALCULATION

FIP, SDA, CDC and FAP Benefits Received

FIP, SDA and CDC Only

The amount of benefits received in an OI calculation include:

- 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).
Warrant history is obtained from Bridges under benefit issuance. (See [RFT 293](#) and [RFT 294](#).)

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 in Bridges under benefit issuance.

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 activities or child support.

Determining Budgetable Income

FIP, SDA, CDC and FAP

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. Bridges will automatically convert based on answers to onscreen questions.

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.

Examples:

- Randy and Andi Andrews both started work. Only Randy's income was budgeted. For the corrected calculation, use actual income for Andi and the projected income already budgeted correctly for Randy.
- Minnie and Mickey receive FIP with their five children. Mickey has reported his employment at Disney Corp. Two of the children left five months ago to go live with grandma, but the change was never acted on. The corrected month budgets will use the income already projected properly for Mickey, but remove the children from the household size.

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 705)

Evidentiary requirements to establish an over-issuance include a financial eligibility budget showing the amount of benefits a Claimant was actually eligible for, so that amount can be subtracted from the amount received. The evidence in this record is insufficient to determine what if any over-issuance occurred. The Department has not met its burden of proof.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the Department of Human Services has not shown that properly shown that Claimant was over-issued \$ [REDACTED] of Food Assistance Program (FAP) benefits which the Department is entitled to recoup.

It is further ORDERED that the Department's action is dismissed without prejudice. The Department may refer the situation to a Recoupment Specialist and pursue an over-issuance in accordance with Department policy.

/s/

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

Date Signed: June 22, 2010

Date Mailed: June 23, 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.

GFH/alc

cc:

