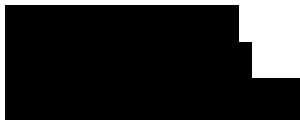


STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Kalamazoo County DHS

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to 7 CFR 273.18; 45 CFR 233.20(a)(13); MCL 400.9; MCL 400.37; MCL 400.43(a); MAC R 400.941 and MCL 24.201, *et seq.*, upon a hearing request by the Department of Human Services (“Department”) to establish an overissuance of benefits to Respondent. After due notice was mailed to Respondent, a hearing was held on September 8, 2011, at which Respondent did not appear. This hearing was held in Respondent’s absence in accordance with Bridges Administrative Manual (BAM) Item 725.

ISSUE

Whether Respondent received an overissuance of Food Assistance Program (FAP) benefits that the department is entitled to recoup?

FINDINGS OF FACT

The Administrative Law Judge, based upon competent, material and substantial evidence on the whole record, finds as material fact:

1. Respondent had been receiving FAP benefits since 2007. (Department Exhibit 1).
2. On April 29, 2008, the Department received a Semi-Annual Contact Report (DHS-1046) that indicated one of Claimant’s household group members (B.G.M.) began receiving child support for his daughter () on December 4, 2007. (Department Exhibits 25-27).
3. Because Respondent did not timely report the income, the Department did not budget Respondent’s child support income when it issued FAP benefits. (Department Exhibit 23).

4. The department discovered it had erred by failing to verify Respondent's child support income. Verification of child support payments from December 2007 through April 2008 was received by the department on April 29, 2008. (Department Exhibits 25-27).
5. In December, 2007, Respondent received [REDACTED] in FAP benefits. In January and February of 2008, respectively, Respondent received [REDACTED] in FAP benefits. In April, 2008, Respondent collected [REDACTED] in FAP. (Department Exhibits 6-24).
6. If the income had been properly reported and budgeted by the Department, Respondent would have not have been eligible to receive FAP benefits in December, 2007 and in February, 2008. In January, 2008, Respondent would have only been eligible to receive [REDACTED] in FAP and [REDACTED] in FAP for April, 2008. During this time period, Respondent was issued a total of [REDACTED] in FAP benefits. (Department Exhibits 4-24).
7. From December, 2007 through April, 2008, Respondent should have been issued [REDACTED] in FAP benefits. Respondent failed to timely report the child support income, resulting in a FAP overissuance for the months of December, 2007 through April, 2008, in the amount of [REDACTED] - [REDACTED]. (Department Exhibits 1, 4, 6 and 25-29).
8. The OI was due to client error for failure to timely report the child support income. (Department Exhibits 1, 4, 6 and 25-29).
9. On April 6, 2010, the Department mailed Respondent a Notice of Overissuance, Overissuance Summary, and Repayment Agreement. (Department Exhibits 1-6).
10. Respondent submitted a hearing request on April 19, 2010, protesting the debt establishment. (Request for a Hearing).

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 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.

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. 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.

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 PEM 272. PAM 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.

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. PAM 705, pp. 1-2.

MA, SER and ESS Only

Recoupment of department error OIs is not pursued. PAM 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 PAM 220, **and**
- . the full negative action suspense period. See PAM 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. PAM, 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)

PAM, 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. PAM 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. PAM, Item 705, p. 6.

In this case, the Department is requesting recoupment for a FAP overissuance in the amount of [REDACTED] for the period of December 1, 2007 through April 30, 2008. At the time, Respondent's group member (B.G.M.) was receiving child support for his daughter (S.K.) but he failed to contact the Department and report the income. The Department, on April 29, 2008, became aware that Respondent had child support income that the Department did not previously budget when calculating Respondent's FAP allotment. This was a client error because Respondent failed to notify the income in a timely manner.

Moreover, department policy indicates that when a client group receives more benefits than they are entitled to receive, DHS must attempt to recoup the overissuance. PAM 700. Client error overissuances are recouped if the amount is more than \$125. PAM 700. The overissuance in this case is [REDACTED], so it must be recouped by the department.

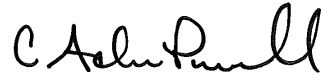
This Administrative Law Judge finds that the evidence presented by the department shows that Respondent is responsible for repayment of the overissuance from December 1, 2007 through April 30, 2008.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that Respondent received an overissuance of FAP benefits for the time period of December 2007 through April 2008, that the department is entitled to recoup.

The department is therefore entitled to recoup FAP overissuance of \$367.00 from Respondent.

It is SO ORDERED.



C. Adam Purnell
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: 9/20/11

Date Mailed: 9/20/11

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.

CAP/ds

