

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: 2010-54034

Issue No: 3052

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

October 13, 2010

Washtenaw 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 October 13, 2010. The claimant personally appeared and provided testimony.

ISSUE

Did the claimant receive an overissuance (OI) of Food Assistance Program (FAP) 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 a Wage Match report showing the claimant had worked for [REDACTED]. (Department Exhibit 12)

2. This employment income had not been previously budgeted. When the income was budgeted, it caused an overissuance for the months of July, 2005 through September, 2005 in the amount of \$492. (Department Exhibit 3 – 11)

3. The claimant was mailed notice of the overissuance on August 17, 2010.

4. The claimant submitted a hearing request on September 8, 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 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.

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.

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.

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.

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

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 August 17, 2010. The department is requesting recoupment for an alleged FAP overissuance in the amount of \$492 for the period of July, 2005 through September, 2005.

The claimant testified that she disagrees with the department's attempt to recoup the money from her because she believes the error was on the part of the department, not through her own actions. The claimant testified that she is sure she turned in proof of her income from

[REDACTED]

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

claimant believes the error to be a department error and the department believes the error to be client error.

The department testified that they have no record of the claimant reporting the income. The claimant is sure that she turned in documentation of the income. However, both department error and client error overissuances are recouped if the amount is more than \$125. BAM 700. The overissuance in this case is \$492, so it must be recouped by the department no matter which type of 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 that the claimant received an overissuance of FAP benefits in the amount of \$492 that the department is entitled to recoup.

Accordingly, the department's actions are UPHELD. SO ORDERED.

/s/ _____
Suzanne L. Morris
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: October 14, 2010

Date Mailed: October 18, 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.

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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.

SLM [REDACTED]

cc: [REDACTED]