

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: 2010-9611
Issue No: 1030, 3052
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
August 12, 2010
Iosco 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 August 12, 2010. Claimant appeared and testified.

ISSUES

Did the Department of Human Services over-issue Claimant \$ [REDACTED] of Family Independence Program (FIP) benefits during the period October 1, 2009, through November 30, 2009 which it is entitled to recoup?

Did the Department of Human Services over-issue Claimant \$ [REDACTED] of Food Assistance Program (FAP) benefits during the period October 1, 2009, through October 31, 2009, which it 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 was an ongoing recipient of Family Independence Program (FIP) and Food Assistance Program (FAP) benefits.

(2) On August 13, 2009, Claimant began employment.

(3) On September 2, 2009, Claimant verbally reported earned income.

(4) On September 14, 2009, a Verification of Employment (DHS Form 38) was received by the Department.

(5) On November 10, 2009, Claimant's earned income was included in her financial eligibility budgets. The BRIDGES computer program generated Notices of Over-Issuance for Family Independence Program (FIP) and Food Assistance Program (FAP) benefits.

(6) On November 19, 2009, Claimant submitted a timely request for hearing and prevented the Department from taking action to recoup any benefits.

CONCLUSIONS OF LAW

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 8 USC 601, *et seq.* The Department of Human Services (DHS or department) administers the FIP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3101-3131. The FIP program replaced the Aid to Dependent Children (ADC) program effective October 1, 1996. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

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 overissuance (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.

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.

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).

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)

In this case it does appear that Claimant was over issued some benefits. The OI periods have been calculated in accordance with Department policy. However, the failure to enter Claimant's income is improper budgeting of income as defined in the policy above. The policy above goes on to specify that if the OI was caused by improper budgeting of income, actual income must be used to determine the OI amount. Evidence in the record clearly shows that BRIDGES used prospected income, calculated from Claimant's September 9, 2009 paycheck, in calculating the OI amounts. The OI amounts asserted have not been calculated in accordance with Department policy and cannot be upheld.

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 established an over-issue amount of Family Independence Program (FIP) or Food Assistance Program (FAP) benefits which it is entitled to recoup.

It is ORDERED that the actions of the Department of Human Services, in this matter, are REVERSED.

/s/

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

Date Signed: August 23, 2010

Date Mailed: August 24, 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:

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