

STATE OF MICHIGAN  
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES  
ADMINISTRATIVE HEARINGS FOR THE  
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]  
[REDACTED]  
[REDACTED]

Reg. No: 20113677

Issue No: 1030

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

December 8, 2010

St. Joseph County DHS

ADMINISTRATIVE LAW JUDGE: Kandra Robbins

**HEARING DECISION**

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37, 7 CFR 273.16, MAC R 400.3130, and MAC R 400.3178 upon the Claimant's request for hearing. After due notice, a [telephone](#) conference hearing was held on [December 8, 2010](#). The claimant and her husband were present and testified.

**ISSUE**

Did the Department act properly trying to recover a Family Independence Program (FIP) overissuance that Respondent received due to a Department error?

**FINDINGS OF FACT**

This Administrative Law Judge, based upon the evidence on the whole record, finds as material fact:

1. The Respondent has been a FIP recipient at all times relevant to this matter.
2. The Respondent was sent a DHS 4358 A Notice of Overissuance on April 5, 2010 indicating an overissuance of \$344.00 (Exhibit 1 pg 2).
3. The Respondent was sent a DHS 4358 A Notice of Overissuance on August 2, 2010 indicating an overissuance of \$791.00 and \$334.00 (Exhibit 1 pg 12).

4. On August 9, 2010, the Department received the claimant's Request for Hearing.

### **CONCLUSIONS OF LAW:**

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901 - .951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied. MAC R 400.903(1) An opportunity for a hearing shall be granted to an applicant who requests a hearing because of a denial. MAC R 400.903(2)

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. BAM 600. The department will provide an administrative hearing to review the decision and determine the appropriateness. BAM 600.

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 Policy states:

#### **BAM 700 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 standards of promptness (SOP).

Note: A client or CDC provider may voluntarily repay any program benefits even when there is no overissuance. Refer these situations to the local office fiscal unit.

##### **Definitions**

The Benefit Recovery System (BRS) is the part of Bridges that tracks all FIP, SDA, CDC and FAP OIs and payments, issues automated collection notices and triggers automated benefit reductions for active programs.

A claim is the resulting debt created by an overissuance of benefits.

The discovery date is determined by the recoupment specialist (RS) for a client or agency error. This is the date the OI is known to exist and there is evidence available to determine the OI type.

For an intentional program violation (IPV) the Office of Inspector General (OIG) determines the discovery date. This is the date the referral was sent to the prosecutor or the date that OIG requested an administrative disqualification hearing.

The establishment date for an OI is:

The date the DHS-4358A-D, Repay Agreement, is sent to the client and for an IPV the date the DHS-4357 is sent notifying the client when the disqualification and recoupment will start.

An overissuance (OI) is the amount of benefits issued to the client group or CDC provider in excess of what they were eligible to receive.

For FAP benefits, an OI is also the amount of benefits trafficked (traded or sold).

Overissuance type identifies the cause of an overissuance. Recoupment is a DHS action to identify and recover a benefit OI.

## **BAM 705 Definition**

### **All Programs**

An agency error OI is caused by incorrect actions (including delayed or no action) by the Department of Human Services (DHS) or the Department of Information and Technology 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.

### **BAM 705 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.

The Respondent was receiving FIP benefits in 2010. At the hearing the Department initially testified that the Respondent owed \$1125.00, which was subsequently changed to \$334.00. The Department alleges that this error is the result of a monthly cash gift from a family member in the amount of \$65.00 (Department exhibit pg 27) that was not calculated as unearned income. A department error overissuance is caused by incorrect actions of DHS staff or department processes. Department policy requires the recoupment of the overissuance if it is more than \$125.00. The Department alleged that there was a payment of \$597.00, and it should only have been \$430.00 (Exhibit pg 5) for March and April 2010. The Department then presented a corrected budget indicating that the FIP benefit should have been \$597.00 (Exhibit pg 23-26). The Department testified at the hearing that the correct amount of cash benefit was \$597.00. The worker, manager and the respondent than began to discuss the budgets, group determination and conversations with various workers. The Department was unable to explain the discrepancy between the various documents presented. The Department has the burden of proving any overissuance. In this case, the Department was unable to identify any overissuance or to explain why they believed there was an overissuance.

**DECISION AND ORDER:**

This Administrative Law Judge, based upon the above findings and conclusion of law, decides that the Department failed to establish an overissuance to the Respondent.

Accordingly, the Department must redetermine the Respondent's FIP eligibility.

It is so ORDERED.

/s/ \_\_\_\_\_  
Kandra Robbins  
Administrative Law Judge  
for Ismael Ahmed, Director  
Department of Human Services

Date Signed: December 22, 2010

Date Mailed: December 22, 2010

**NOTICE:** The law provides that within 30 days of receipt of the above Decision and Order, the respondent may appeal it to the circuit court for the county in which he/she lives.

KKR/tg

2011-3677/KKR

cc:

