

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2012-49879
Issue No.: 3052
Case No.: [REDACTED]
Hearing Date: June 14, 2012
County: Macomb 12

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Claimant's request for a hearing. After due notice, a telephone hearing was held on June 14, 2012 from Lansing, Michigan. Participants on behalf of Claimant included Claimant and [REDACTED] (Claimant's spouse). Participants on behalf of Department of Human Services (Department) included [REDACTED] the (Recoupment Specialist).

ISSUE

Did Claimant receive an overissuance of program benefits that the Department is entitled to recoup?

FINDINGS OF FACT

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

1. During the period of June 1, 2011 through December 31, 2011, Claimant received Food Assistance Program (FAP) benefits.
2. The Department determined that during the period of June 1, 2011 through December 31, 2011, Claimant received FAP benefits in the amount of [REDACTED].
3. During the period of June 1, 2011 through December 31, 2011, Claimant was not eligible to receive FAP benefits.
4. During the period of June 1, 2011 through December 31, 2011, Claimant received an overissuance in the amount of [REDACTED].

5. The overissuance was due to Department error because the Department failed to properly budget all household unearned income during the time period.
6. On January 19, 2012, the Department sent notice of the overissuance and a repayment agreement to Claimant.
7. On January 23, 2012, Claimant filed a hearing request, protesting the Department's recoupment action.

CONCLUSIONS OF LAW

Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT).

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 (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, *et seq.*, and 1997 AACRS R 400.3001-3015.

When a client group receives more benefits than he or she is entitled to receive, the Department must attempt to recoup the overissuance (OI). BAM 700, p. 1. OIs are caused by either department error or by client error. BAM 700. For all programs, a department error OI is caused by incorrect action (including delayed or no action) by DHS staff or department processes. BAM 700. Some examples of OIs that occur due to department error are: (1) the department failed to use or incorrectly used available information; (2) the department misapplied policy; (3) the department, through its local office or staff member, delayed taking some action; (4) there was a computer or machine error; (5) information was not shared between department divisions (services staff, Work First agencies, etc.) and (6) data exchange reports were not acted upon timely (Wage Match, New Hires, BENDEX, etc.). BAM 700.

When the type of OI is unable to be identified, it shall be recorded as a department error. BAM 700. For FIP, SDA, CDC and FAP, department error OIs are not pursued if the estimated OI amount is less than \$125 per program. BAM 700. However, there is no threshold limit on CDC system errors. BAM 700. For FIP, SDA and FAP, the department error threshold was lowered to \$125 retroactive back to August 1, 2008. BAM 700. For the FIP and SDA programs only, the department will consider an OI due to excess assets as a department error unless it was the result of an intentional program violation. BAM 700.

For 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. BAM 700. A client error also exists when the client's timely request for a hearing results in deletion of a DHS action, and (1) the hearing request is later withdrawn, or (2) administrative hearings denies the hearing request, or (3) the client or administrative hearing representative fails to appear for the hearing and administrative hearings gives DHS written instructions to proceed, or (4) the hearing decision upholds the department's actions. See BAM 600. BAM Item 700, p. 5.

The following concerns the OI threshold for FIP, SDA, CDC and FAP. Department error OIs are not pursued if the estimated OI amount is less than \$125 per program. BAM 700. Client error OIs are not established if the OI amount is less than \$125, unless (1) the client or provider is active for the OI program or (2) the OI is a result of a Quality Control (QC) audit finding. BAM 700, p. 7.

For 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. BAM 700. If the FAP budgetable income included FIP/SDA benefits, the department will use the grant amount actually received in the OI month. BAM 700. The department will 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.

When determining budgetable income for FIP, SDA, CDC and FAP, the following policies apply. If improper budgeting of income caused the OI, the department will use actual income for the past OI month for that income source. BAM 700. Income received weekly or every other week will be converted to a monthly amount. BAM 700. Except for FAP only, income is not converted from a wage match for any type of OI. BAM 700. Any income properly budgeted in the issuance budget remains the same in that month's corrected budget. BAM 700.

In this case, the Department is requesting recoupment for an alleged FAP overissuance in the amount of [REDACTED] for the period of June 1, 2011 through December 31, 2011. At the time, Claimant received FAP benefits based on the Department's failure to calculate the RSDI (Social Security Disability) income. The Department did not properly budget all countable income. Due to agency error in failing to budget Claimant's RSDI income, a FAP OI resulted in the amount of [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 error was a department error, as the appropriate action was not taken timely by the department staff. Department error overissuances are recouped if the amount is more than [REDACTED] BAM 700. The overissuance in this case is [REDACTED] and it shall be recouped by the department.

Based upon the above Findings of Fact and Conclusions of Law, this Administrative Law Judge finds that the evidence presented by the department shows that Claimant is responsible for repayment of the overissuance of FAP benefits in the amount of [REDACTED] from June 1, 2011 through December 31, 2011.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department did act properly.

Accordingly, the Department's decision is AFFIRMED for the reasons stated above and for the reasons set forth on the record.

IT IS SO ORDERED.

/s/

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

Date Signed: 6/19/12

Date Mailed: 6/19/12

NOTICE: Michigan Administrative Hearing System (MAHS) 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. MAHS will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing 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.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
 - misapplication of manual policy or law in the hearing decision,
 - typographical errors, mathematical error , or other obvious errors in the hearing decision that effect the substantial rights of the claimant;
 - the failure of the ALJ to address other relevant issues in the hearing decision

Request must be submitted through the local DHS office or directly to MAHS by mail at
Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-07322

CAP/ds

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