

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

IN THE MATTER OF:

██████████
████████████████████
████████████████████

Reg. No.: 14-019016
Issue No.: 1006
Case No.: ██████████
Hearing Date: March 30, 2015
County: Oakland-District 4

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

HEARING DECISION

Upon a hearing request by Respondent in response to a Notice of Overissuance sent to Respondent by the Department of Human Services (Department) alleging an overissuance (OI) of benefits to Respondent, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9, 400.43a, and 24.201, *et seq.*, and Mich Admin Code, R 400.941, and in accordance with 7 CFR 273.15 to 273.18, 42 CFR 431.200 to 431.250, 45 CFR 99.1 to 99.33, and 45 CFR 205.10. After due notice, telephone hearing was held on March 30, 2015, from Detroit, Michigan. Participants on behalf of the Department included ██████████, Family Independence Specialist. Participants on behalf of Respondent included Respondent and ██████████ ██████████, Respondent's mother.

ISSUE

Did Respondent receive an OI of Family Independence Program (FIP) benefits?

FINDINGS OF FACT

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

1. Respondent was a recipient of FIP benefits from the Department.
2. On November 3, 2014, the Department sent Respondent a Notice of Overissuance alleging that she received an OI of FIP benefits for the period from January 1, 2014, to September 30, 2014.
3. On November 20, 2014, Respondent filed a request for hearing disputing the Department's actions.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), and Department of Human Services Reference Tables Manual (RFT).

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Family Independence Agency) administers FIP pursuant to 45 CFR 233-260, MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3101 to .3131.

When a client group receives more benefits than it is entitled to receive, the Department must attempt to recoup the overissuance. BAM 700 (May 2014), p. 1. The amount of the overissuance is the benefit amount the group actually received minus the amount the group was eligible to receive. BAM 715 (July 2014), p. 6; BAM 705 (July 2014), p. 6.

In this case, the Department alleged that Respondent received an OI of FIP benefits from January 1, 2014, to September 30, 2104. The Department testified that the FIP recoupment amount outstanding was the alleged FIP OI reduced by State tax refunds the Department had procured and applied towards the total OI amount alleged. However, the Department did not include the notice of overissuance notifying Respondent of the FIP OI with its hearing packet. Therefore, it is unclear what total OI amount the Department alleged.

The Department alleged that Respondent received an OI of FIP benefits because she failed to timely report her earned income from employment. Department policy provides that, if improper budgeting or income caused the overissuance, the Department must use the actual income for the past overissuance month for that income source. BAM 705, pp. 7-8; BAM 715, pp. 7-8.

In this case, the Department failed to present any FIP OI budgets showing the amount of FIP benefits Respondent was eligible to receive, if any, if her employment income had been properly budgeted. Budgets are particularly relevant in establishing the FIP OI because, when a client receives earned income, income deductions are available in calculating FIP eligibility. BEM 518 (July 2013), p. 5. In the absence of any evidence showing the FIP grant Respondent was eligible to receive between January 1, 2014, and September 30, 2014, when her earned income was properly budgeted in her FIP eligibility, the Department has failed to satisfy its burden of showing that Respondent was overissued FIP benefits.

During the hearing, Respondent and her mother testified that each of their state income tax refunds was offset by the Department to repay the FIP OI. The Department may request that the Michigan Department of Treasury collect debts cash overissuances

through state income tax offsets. BAM 725 (July 2014), pp. 10-11. However, all collection actions are suspended when the OI is pending with administrative hearings. BAM 725, p. 13.

In this case, the State income tax offset occurred while Respondent's hearing request disputing the FIP OI was outstanding. The Department acknowledged at the hearing that Respondent did not have any other overissuance with the Department other than the FIP OI for the period January 1, 2014, to September 1, 2014. Therefore, the Department did not act in accordance with Department policy when it garnished Respondent's income tax refund to offset the alleged FIP OI. It is noted that, when a case is offset in error, the recoupment specialist must send a memo explaining the reasons for requesting a refund to the following: Reconciliation & Recoupment Section, Welfare Debt Unit, Suite 710, Grand Tower Building. There was no evidence in this case that the Department had taken any such action.

At the hearing, Respondent's mother testified that her state tax refund was also garnished in connection with the FIP OI case against Respondent. The Department acknowledged that Respondent's mother was not, and had never been, a member of Respondent's FIP group. See BEM 210 (July 2013), pp. 4-5. Because she was not a member of Respondent's FIP group at the time the OI allegedly occurred; she is not responsible for repayment of any overissuance. BAM 725, p. 1. Therefore, the Department erred to the extent it garnished Respondent's mother's state income tax refund and offset it against the FIP OI it alleged against Respondent. BAM 725, p. 11. Because the instant Hearing Decision is in response to Respondent's request for hearing, Respondent's mother was advised to request a hearing in the event she is not reimbursed by the Department for the garnished taxes to have the matter adjudicated by an administrative law judge.

DECISION AND ORDER

Accordingly, the Department is REVERSED.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Delete, and cease any collection procedures for, any FIP OI against Respondent for the period between January 1, 2014, and September 30, 2014; and
2. Refund Respondent for any income tax refunds that the Department garnished in connection with the Department's FIP OI action against Respondent.



Alice C. Elkin
Administrative Law Judge
for Nick Lyon, Interim Director
Department of Human Services

Date Signed: **4/15/2015**

Date Mailed: **4/15/2015**

ACE / tlf

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date.

A party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (MAHS) within 30 days of the mailing date of this Hearing Decision, or MAHS may order a rehearing or reconsideration on its own motion.

MAHS may grant a party's Request for Rehearing or Reconsideration when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The party requesting a rehearing or reconsideration must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088 and be labeled as follows:

