

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

IN THE MATTER OF:

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Reg. No.: 15-015840
Issue No.: 1001
Case No.: ██████████
Hearing Date: October 12, 2015
County: Macomb-District 20

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

HEARING DECISION

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 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; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on October 12, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Health and Human Services (Department) included ██████████, Hearings Facilitator and ██████████, PATH Case Manager.

ISSUE

Did Claimant receive an overissuance (OI) Family Independence Program (FIP) 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. Claimant is an ongoing recipient of FIP benefits.
2. On August 14, 2015, the Department sent Claimant a Notice of Overissuance alleging that she received an OI of FIP benefits totaling \$624 for the period from January 1, 2015, to June 30, 2015, due to client error. The explanation listed on the Notice was that Claimant's employment at ██████████ and ██████████ was never added to the budget. (Exhibit A, pp.19-20)
3. On August 14, 2015, the Department sent Claimant a Notice of Case Action informing her that effective September 1, 2015, she was approved for FIP benefits

in the amount of \$184.86, as \$20.14 was being deducted from her monthly FIP grant due to administrative recoupment. (Exhibit A, pp. 14-18)

4. On August 26, 2015, Claimant requested a hearing disputing the Department's actions with respect to the overissuance.

CONCLUSIONS OF LAW

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

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 Department of Human Services) 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-.3131.

When a client group receives more benefits than they are entitled to receive, the Department must attempt to recoup the OI. BAM 700 (May 2014), p. 1. A client error OI occurs when the client received more benefits than they were entitled to because the client gave incorrect or inaccurate information to the Department. BAM 700, p.6. An agency error OI is caused by incorrect actions by the Department, including delayed or no action, which result in the client receiving more benefits than they were entitled to receive. BAM 700, p.4. 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 testified that in connection with a redetermination, Claimant's FIP eligibility was reviewed. The Department stated that after reviewing Claimant's case it was determined that her employment and income from two employers had not been previously added to her budget. The Department testified that Claimant's FIP budgets were recalculated and it was determined that she was overissued FIP benefits for the months of January 2015, May 2015, and June 2015.

Although the Department initially stated that the OI was due to agency error, the August 14, 2015, Notice of Overissuance informs Claimant that from January 1, 2015, to June 30, 2015, she received a client error caused OI in FIP benefits in the amount of \$624. It was unclear based on the Department's testimony and evidence presented exactly what inaccurate or incorrect information Claimant gave to the Department resulting in a client error OI, however, as the case notes presented and relied on by the Department

confirm that the Department was aware of Claimant's income and employment as of August 2014. (Exhibit A, pp. 2-5).

At the hearing, the Department testified that the State of Michigan issued a total of \$644 in FIP benefits to Claimant for the months of January 2015, May 2015, and June 2015, and that Claimant was eligible to receive \$20 in FIP benefits for those months which resulted in an OI of \$624. (Exhibit A, p. 20). The Department testified that in calculating the OI, it relied on the employment and income information contained in the case notes. (Exhibit A, pp. 2-5). However, after further review, the case notes were insufficient to establish that Claimant was employed and receiving income during the months at issue. The Department did not present sufficient verification of employment to establish that Claimant was employed during the period at issue; nor did the Department provide any paystubs or similar documentation to show Claimant's actual earnings, as required by Department policy to calculate an OI. BAM 715 (July 2014), p. 8.

Furthermore, the Department failed to present any FIP OI budgets for the months of January 2015, May 2015, and June 2015, and instead only provided FIP Income Test Budgets for the months of January 2015 and June 2015. The January 2015 and June 2015 FIP Income Test Budgets were reviewed at the hearing; however, It was unclear from the evidence presented and the Department remained unable to explain exactly how the \$624 OI was determined in this case or what exact income amounts were relied on to make the determination that Claimant was eligible to receive \$20 in FIP benefits based on her income.

Thus, the Department has failed to satisfy its burden in establishing that Claimant was overissued FIP benefits in the amount of \$624 and as such, is not entitled to recoupment. There was evidence presented that the Department had started administrative recoupment procedures and was already deducting FIP benefits from Claimant's current monthly FIP grant. Because the Department has not established that it is entitled to recoupment, this action by the Department is improper.

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that the Department **did not** establish a FIP benefit OI to Claimant totaling \$624.

DECISION AND ORDER

Accordingly, the Department's decision 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:

The Department is ORDERED to delete the \$624 FIP OI and cease any recoupment and/or collection action.

The Department is FURTHER ORDERED to issue supplements to Claimant for any FIP benefits that have already been administratively recouped and that that she was entitled to receive but did not as a result of the Department's improper administrative recoupment.



Zainab Baydoun
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **10/20/2015**

Date Mailed: **10/20/2015**

ZB / 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 copy of the claim or application for appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Hearing Decision from 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:

Attention: MAHS Rehearing/Reconsideration Request

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

cc: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]