

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

IN THE MATTER OF:



MAHS Reg. No.: 15-016715
Issue No.: 1007
Agency Case No.: [REDACTED]
Hearing Date: November 9, 2015
County: Wayne (17)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

HEARING DECISION

Following Petitioner'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 November 9, 2015, from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by [REDACTED], hearing facilitator.

ISSUE

The issue is whether MDHHS properly recouped Family Independence Program (FIP) benefits from Petitioner.

FINDINGS OF FACT

The administrative law judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Petitioner was an ongoing FIP benefit recipient.
2. Petitioner received [REDACTED] in FIP benefits in May 2015.
3. On August 3, 2015, MDHHS mailed Petitioner a notice of cash assistance eligibility (Exhibits 5-9), effective September 2015, informing Petitioner that ongoing FIP benefits would be reduced [REDACTED] due to recoupment.
4. On August 26, 2015, Petitioner requested a hearing to dispute recoupment of ongoing FIP eligibility.

CONCLUSIONS OF LAW

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193, and 42 USC 601 to 679c. MDHHS (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10 and 400.57a and Mich Admin Code, R 400.3101 to .3131. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing to dispute a recoupment of FIP benefits. MDHHS testimony indicated that MDHHS was attempting to recoup FIP benefits issued to Petitioner in May 2015. MDHHS presented a Benefit Summary Inquiry (Exhibit 1) verifying the amount issued to Petitioner in May 2015 was [REDACTED]

When a client group receives more benefits than they are entitled to receive, [MDHHS] must attempt to recoup the over-issuance. BAM 700 (May 2014), p. 1. An over-issuance is the amount of benefits issued to the client group or CDC provider in excess of what it was eligible to receive. *Id.* Recoupment is a [MDHHS] action to identify and recover a benefit over-issuance. *Id.*, p. 2.

Petitioner testified she applied for FIP benefits in January 2015 and MDHHS did not issue FIP benefits until March 2015. Petitioner alleged the wait for FIP benefits somehow invalidated the recoupment. Petitioner's argument was unpersuasive for many reasons.

First, it was not established that MDHHS violated their standard of promptness as it is theoretically possible that Petitioner applied for FIP in January 2015 and MDHHS processed Petitioner's application within 45 days. Presented evidence did not establish when Petitioner applied or when MDHHS processed Petitioner's FIP eligibility.

Secondly, there is no appreciated basis for an alleged standard of promptness violation as a defense to a recoupment action. If Petitioner wished to dispute a standard of promptness violation and/or issuance of FIP benefits, she should have done so when MDHHS first issued benefits to her.

Petitioner testified that she reported the income on her original application and she is not at fault for any overissuance by MDHHS. MDHHS did not allege that Petitioner was at fault for the overissuance. It will be presumed that MDHHS was trying to recoup benefits over-issued due to their own error.

MDHHS categories overissuance errors as client-caused, agency-caused, and intentional violations (see *Id.*, pp. 4-7). Agency errors are not pursued if the estimated amount is less than [REDACTED] per program. *Id.*, p. 4.

The present case concerns an alleged [REDACTED] over-issuance based on agency error. Because the over-issuance amount exceeds [REDACTED] MDHHS is not barred from pursuing recoupment.

MDHHS presented evidence of Petitioner's employment income history (Exhibits 3-4). Petitioner's pay history indicated regular biweekly payments of no less than \$ [REDACTED] over the period from March 2015 through June 2015. Generally, such income is consistent with income-ineligibility for FIP benefits.

The evidence was indicative that Petitioner should not have received FIP benefits for April 2015. This indication is not certain because a FIP over-issuance budget for April 2015 was not presented.

When MDHHS seeks to recoup benefits based on an overissuance, it is imperative that MDHHS justify their actions with a budget. The budget lists all factors used by MDHHS in determining that benefits were over-issued. It is a basic starting point for any hearing.

A client should have ample opportunity to review the budget before the hearing. Thus, a budget is expected to be part of the original hearing packet mailed to a client before the hearing. Attempts to submit a budget during an overissuance hearing are generally unwelcome because it deprives clients from having reasonable time to review and/or research budget factors.

In the present case, MDHHS presented a Notice of Case Action (Exhibit 5-9) dated August 3, 2015. The notice included a budget summary of Petitioner's FIP eligibility. The summary is insufficient evidence of over-issuance because the budget was for Petitioner's September 2015 eligibility; as noted above, MDHHS alleged an over-issuance from May 2015.

Based on the presented evidence, it is found that MDHHS failed to present sufficient evidence of over-issuance. Accordingly, it is found that MDHHS improperly initiated recoupment against Petitioner.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly initiated recoupment against Petitioner. It is ordered that MDHHS perform the following actions within 10 days of the date of mailing of this decision:

- (1) cease recoupment of FIP benefits against Petitioner subject to the finding that MDHHS failed to establish an overissuance of FIP benefits from May 2015; and
- (2) issue a supplement of FIP benefits for any previously recouped benefits.

The actions taken by MDHHS are **REVERSED**.



Christian Gardocki
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **11/12/2015**

Date Mailed: **11/12/2015**

CG/tm

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:

