

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

IN THE MATTER OF:

[REDACTED]

MAHS Reg. No.: 15-016951
Issue No.: 1006
Agency Case No.: [REDACTED]
Hearing Date: November 09, 2015
County: Oakland (3) Southfield

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

HEARING DECISION

Upon the request for a hearing by the Department of Health and Human Services (Department), this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9, and in accordance with Titles 7, 42 and 45 of the Code of Federal Regulation (CFR), particularly 7 CFR 273.16 and 45 CFR 235.110; and with Mich Admin Code, R 400.3130 and 400.3178. After due notice, an in-person hearing was held on November 9, 2015, from Southfield, Michigan. The Department was represented by [REDACTED] Recoupment Specialist. The Respondent was represented by [REDACTED]. [REDACTED] also appeared as a witness. .

ISSUE

Did Respondent receive an over issuance (OI) of Family Independence Program (FIP) cash assistance benefits due to client error?

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. The Department alleges Respondent received a FIP cash assistance OI during the period October 1, 2011, through November 30, 2011, due to **Respondent's** error.
3. The Department sent the Respondent a Notice of Over issuance dated August 26, 2015, seeking to recoup \$ [REDACTED] in over issued FIP benefits resulting from the Respondent's failure to timely report her spouse's receipt of RSDI. The failure to report the income resulted in Respondent receiving more FIP benefits that she was otherwise entitled to receive in accordance with

Department policy. The Department indicated that this matter arose from client error. Exhibits 1 and 3.

4. The Respondent's spouse began receiving \$ [REDACTED] in RSDI on August 17, 2011, but did not report the income until November 2011. Exhibit 6.
5. During the period of over issuance, the Respondent received FIP benefits in the amount of \$ [REDACTED] and was entitled to receive \$0 resulting in an over issuance of \$ [REDACTED] for October 2011. During November 2011, Respondent received FIP benefits in the amount of \$ [REDACTED] and was entitled to receive \$0 resulting in an over issuance of \$ [REDACTED]. The total FIP over issuance was \$ [REDACTED]. Exhibits 2 and 3.
6. The Respondent was provided a change report on November 23, 2010, after the November 2010 redetermination FIP review, which advised the Respondent that changes in household income must be reported. Exhibit 7.
7. The Respondent reported the Retirement, Survivors and Disability Insurance (RSDI) income at the next redetermination dated November 2011. After the income was reported the FIP case was closed as the Petitioner was no longer eligible.
8. The Department alleges that Respondent received a \$ [REDACTED] OI that is still due and owing to the Department.
9. The Respondent requested a timely hearing on September 24, 2015, protesting the Department's actions.

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), and Department of Health and 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 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 to .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. The amount of the OI is the benefit amount the group or provider actually received minus the amount the group was eligible to receive. BAM 715 (July 2014), p. 6.

In this case, the Respondent's spouse began receiving \$ [REDACTED] RSDI in August 2011, which was not reported timely. The Department provided two FIP over issuance budgets that were reviewed at the hearing for October and November 2011, the two-month over issuance period. The unearned income from RSDI in the amount of \$ [REDACTED] was determined as correct, as was the group size of 5 correct. The FIP payment standard for as group of 5 was \$ [REDACTED] and during the time the Petitioner's group had no income, the FIP group was receiving the maximum FIP benefit. Once the FIP group received RSDI, the RSDI income of \$ [REDACTED] exceeded the payment standard, and thus, the group was no longer eligible for FIP benefits. The correct FIP benefit for both October and November 2011 was \$0; the Respondent had received \$ [REDACTED] for October and November 2011, thus, resulting in an over issuance for each of the two months of \$ [REDACTED] for a total over issuance of \$ [REDACTED] Exhibits 4 and 5.

Department policy regarding FIP eligibility provides:

The certified group must be in financial need to receive benefits. Need is determined to exist when budgetable **income is less than the payment standard established by the department.** Program, living arrangement, grantee status and certified group size are variables that affect the payment standard. BEM 515 (October 1, 2015), p. 1.

Financial need exists if:

- There is at least a \$10 deficit after income is budgeted in the issuance deficit test.
- The group passes the child support income test.

If the group fails either test, the group is ineligible for assistance. Certify FIP denial or closure in Bridges for the benefit month unless the group meets the conditions for temporary ineligibility or extended FIP. BEM 518 (October 1, 2015) p. 2

The payment standard is the maximum benefit amount that can be received by the CG. (Certified Group) Income is subtracted from the payment standard to determine the grant amount; see BEM 518. The grant amount is for shelter, heat, utilities, clothing, food and items for personal care. BEM 515 (October 1, 2015) p. 1. The FIP monthly assistance payment standard for a group of 5, is \$694.00. RFT210 (December 1, 2013), p. 1. The Payment standard amounts have been the same since 2008.

Thus based upon the policy cited above and the FIP budgets presented it is determined that the Department correctly determined that a FIP over issuance occurred because group income exceeded \$ [REDACTED] Exhibit 4 and Exhibit 5.

The reason the Department determined client error was because the client was provided a change report on November 23, 2010, after the November redetermination FAP review, which advised that the Respondent that changes in household income must be reported. The change in income was not timely reported; and thus, the over issuance resulted from the Respondent's failure to report the income increase from RSDI. The change report clearly advises that the Respondent report changes within 10 days. Exhibits 5 and Exhibit 6. Department policy requires: A client/CDC provider error OI occurs when the client receives more benefits than they were entitled to because the client/CDC provider gave incorrect or incomplete information to the department. BAM 715, p. 1.

Clients must report changes in circumstance that potentially affect eligibility or benefit amount. BAM 105 (April 2014), p. 9. Changes must be reported within 10 days of receiving the first payment reflecting the change. Other changes must be reported within 10 days after the client is aware of them. BAM 105, (July 1, 2015), p. 10. These include, but are not limited to, changes in persons in the home. See BAM 105, p. 10-11.

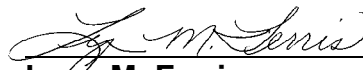
Over issuance on inactive programs are recouped through cash repayment processes. Collection notices are sent to the household on the inactive case.

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that the Department **did** establish a FAP benefit OI to Respondent totaling \$ [REDACTED] for the period October 1, 2011, through November 30, 2011.

DECISION AND ORDER

Accordingly, the Department is **AFFIRMED**.

The Department is **ORDERED** to initiate collection procedures for a \$ [REDACTED] OI in accordance with Department policy.



Lynn M. Ferris
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Mailed: **11/13/2015**

LMF/jaf

NOTICE OF APPEAL: The law provides that within 30 days of receipt of the above Hearing Decision, the Respondent may appeal it to the circuit court for the county in which he/she lives or the circuit court in Ingham County. 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 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:

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:

