

**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.: 15-002358
Issue No.: 1006
Case No.: ██████████
Hearing Date: June 18, 2015
County: Wayne-District 31

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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, a telephone hearing was held on June 18, 2015, from Detroit, Michigan. The Department was represented by █████ █████, Family Independence Specialist Worker. Participants on behalf of Respondent included ██████████.

ISSUE

Did Respondent receive an overissuance of Family Independence Program (FIP) 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. Respondent was a recipient of FIP benefits from the Department.
2. On January 22, 2015, the Department sent Respondent a Notice of Overissuance alleging that she received an OI of FIP benefits totaling \$755 for the period from August 1, 2014, to December 31, 2014, due to client error. (Exhibit A)
3. On February 6, 2015, Respondent requested a hearing disputing the Department's actions with respect to the January 22, 2015, Notice of 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), 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.

In this case, on January 22, 2015, the Department sent Claimant a Notice of Overissuance informing her that from August 1, 2014, to December 31, 2014, the Department determined that she received a client error caused OI in FIP benefits in the amount of \$755. (Exhibit A).

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.

Although the Notice of Overissuance references a client error caused OI, it was unclear based on the Department's testimony and evidence presented exactly what inaccurate or incorrect information Respondent gave to the Department which resulted in an alleged client error OI. According to the January 22, 2015, Notice of Overissuance, the Department alleged that the State of Michigan issued a total of \$644 in FIP benefits to Respondent for the months of August 2014, September 2014, November 2014, and December 2014, and that Respondent was eligible to receive \$40 in FIP benefits for those months which resulted in an OI of \$604. The Department testified that Respondent also received an OI in the amount of \$151 for the month of October 2014 but for an unexplained reason, that month was omitted from the Notice of Overissuance. Including the month of October 2014 and based on the Department's testimony at the hearing, the total amount of FIP benefits issued was \$805, the eligible amount \$50, and the alleged OI \$755.

The Department stated that the total OI was \$755 for the period of August 1, 2014, to December 31, 2014, however, because Respondent received a \$137 underissuance for

the month of July 2014, that amount was deducted from the \$755, resulting in \$618 now being owed to the Department. BAM 405 (July 2013), pp. 1-2.

Initially, the Department testified that Respondent was employed at [REDACTED] and [REDACTED] concurrently and that the income from both places of employment was used to determine the alleged OI amount. The documentary evidence presented at the hearing however, establishes that Respondent's employment at [REDACTED] ended in June 2014 and that her employment at [REDACTED] began in June 2014. (Exhibit C; Exhibit D; Exhibit E). In addition, a review of the application submitted to the Department on September 17, 2014, shows that Respondent reported that she had been employed at [REDACTED] since June 2014 and Respondent testified that she timely reported her employment to the Department, which was not refuted by the Department. (Exhibit B).

Furthermore, the Department failed to present any FIP benefit summary issuances or eligibility summary confirming that Respondent was issued \$805 in FIP throughout the alleged OI period, as well as any evidence that Respondent was entitled or eligible for a certain amount of FIP benefits during the period at issue. The Department also failed to present any FIP OI budgets for the months at issue in support of its assertion that Respondent was overissued \$755. Although the Department presented some pay stubs and the work number for review, it remained unclear after a thorough review of the evidence presented exactly how the Department calculated the OI in this case and what exact income amounts were relied on for each month in the OI period. Because it was also unclear what inaccurate or incorrect information Respondent provided to the Department, the Department has failed to establish that Respondent received a client error caused OI from the FIP.

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 Respondent totaling \$755.

DECISION AND ORDER

Accordingly, the Department is REVERSED.

The Department is ORDERED to delete the \$755 FIP OI and cease any recoupment and/or collection action.



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

Date Signed: **7/15/2015**

Date Mailed: **7/15/2015**

ZB / tlf

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

