

**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.: 15-015109  
Issue No.: 1006  
Agency Case No.: [REDACTED]  
Hearing Date: October 20, 2015  
County: OAKLAND-DISTRICT 3  
(SOUTHFIELD)

**ADMINISTRATIVE LAW JUDGE:** Kevin Scully

**HEARING DECISION**

Following Respondent'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. After due notice, telephone hearing was held on October 20, 2015, from Lansing, Michigan. Participants on behalf of the Department of Health and Human Services (Department) included [REDACTED] (Recoupment Specialist) and [REDACTED]. Participants on behalf of Respondent included [REDACTED].

**ISSUE**

Did the Department properly determine that the Respondent received an overissuance of Family Independence Program (FIP)?

**FINDINGS OF FACT**

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

1. On August 19, 2014, the Department received the Respondent's Family Independence Program (FIP) application.
2. On September 18, 2014, the Department notified the Respondent that it had approved her Family Independence Program (FIP) application as a group of one.
3. On June 10, 2015, the Department received a Verification of Student Information (DHS-3380) that indicated the Respondent's grandson had withdrawn himself from enrollment in the [REDACTED] School on September 30, 2014.

4. On August 12, 2015, the Department sent the Respondent a Notice of Overissuance (DHS-4358) informing her of the Department's intent to recoup \$ [REDACTED] of Family Independence Program (FIP) benefits due to client error.
5. On August 26, 2015, the Department received the Respondent's request for a hearing.

### **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.

A dependent child age 16 or 17 who is not attending high school full-time is disqualified from the FIP group. Dependent children age 18 must attend high school full-time until either the dependent child graduates from high school or turns 19, whichever occurs first. Department of Health and Human Services Bridges Eligibility Manual (BEM) 246 (July 1, 2014), p 1.

When a client group receives more benefits than it is entitled to receive, the Department must attempt to recoup the overissuance. An agency error is caused by incorrect action (including delayed or no action) by Department staff or Department processes. A client error occurs when the client received more benefits than they were entitled to because the client gave incorrect or incomplete information to the department. Client and agency errors are not pursued if the estimated amount is less than \$250 per program. Department of Health and Human Services Bridges Administrative Manual (BAM) 700 (May 1, 2014), pp 1-9.

Overissuance balances on inactive cases must be repaid by lump-sum or monthly cash payments unless collection is suspended. Department of Health and Human Services Bridges Administrative Manual (BAM) 725 (July 1, 2014), p 8.

On August 19, 2014, the Department received the Respondent's application for FIP benefits. On September 18, 2014, the Department approved the Respondent for FIP benefits as a group of one and as an ineligible grantee. A condition of receiving those benefits was that the Respondent's grandson (date of birth [REDACTED]) attend high school full time. BEM 246.

On June 10, 2014, the Department received verification that the Respondent's grandson had withdrawn from enrollment in the [REDACTED] School on September 30, 2014. No evidence was presented on the record that the Respondent's grandson had graduated or was no longer considered a dependent child. No evidence was presented on the record that the Respondent reported her grandson's withdrawal from high school. No evidence was presented on the record that the Respondent was aware of her grandson's withdrawal from high school since he left her home each day and appeared to be going to school.

If the Respondent had reported her grandson's withdrawal from high school, the Department would have closed her FIP benefits no later than December 1, 2014. From December 1, 2014, through August 31, 2015, the Respondent received FIP benefits totaling \$ [REDACTED], but was not eligible to receive any of these benefits due to the client error of failing to report her grandson's withdrawal from high school. Therefore, the Respondent received an overissuance of \$ [REDACTED].

The Respondent testified that she could not afford to make payments on the overissuance as instructed by the Department.

Administrative Law Judges have no authority to make exceptions to the Department policy set out in the program manuals. Administrative adjudication is an exercise of executive power rather than judicial power, and restricts the granting of equitable remedies. *Michigan Mutual Liability Co. v Baker*, 295 Mich 237; 294 NW 168 (1940).

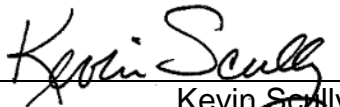
A request for a policy exception must be made from the RS to the Fraud and Recoupment Administration office outlining the facts of the situation and the client's financial hardship. The deputy director of the MDHHS Fraud and Recoupment Administration has final authorization on the determination for all compromised claims. Department of Health and Human Services Bridges Administrative Manual (BAM) 720 (October 1, 2015), p 16.

Send to:  
Fraud and Recoupment Administration  
Suite 710  
235 S. Grand Ave  
P.O. Box 30037  
Lansing, MI 48909

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department acted in accordance with Department policy when it determined that the Respondent received a \$ [REDACTED] overissuance of Family Independence Program (FIP) benefits due to client error.

**DECISION AND ORDER**

Accordingly, the Department's decision is **AFFIRMED**.

  
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Kevin Scully  
Administrative Law Judge  
for Nick Lyon, Director  
Department of Health and Human Services

Date Signed: **11/10/2015**

Date Mailed: **11/10/2015**

KS/■

**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:

