



RICK SNYDER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN ADMINISTRATIVE HEARING SYSTEM  
Christopher Seppanen  
Executive Director

MIKE ZIMMER  
DIRECTOR

[REDACTED]

Date Mailed: March 31, 2016  
MAHS Docket No.: 15-023340  
Agency No.: [REDACTED]  
Petitioner: DHHS  
Respondent: [REDACTED]

**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, a telephone hearing was held on March 9, 2016, from Detroit, Michigan. The Department was represented by [REDACTED] Family Independence Manager (FIM). The Respondent was represented by [REDACTED].

### **ISSUE**

Did Respondent receive an overissuance (OI) of Family Independence Program (FIP) cash assistance?

### **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 an FIP cash assistance OI during the period February 2015 through August 31, 2015, due to **Department's** error.
3. The Department alleges that Respondent received \$ [REDACTED] OI that is still due and owing to the Department.

4. On November 5, 2015, the Department sent Respondent a Notice of Overissuance (OI Notice) informing her of an FIP cash assistance OI for the period of February 1, 2015, to August 31, 2015, due to Agency Error. Exhibit A.
5. The Department did not provide OI budgets for the months of July 2015 and August 2015.
6. On December 1, 2015, the Respondent requested a hearing protesting the Department's actions.
7. The Department requested a hearing on December 1, 2015.

### **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 705 (July 2014), p. 6.

An agency error is caused by incorrect actions (including delayed or no action) by the Department of Health and Human Services (DHHS) staff or Department processes. BAM 705, p. 1. Some examples are:

- Available information was not used or was used incorrectly.
- Policy was misapplied.
- Action by local or central office staff was delayed.
- Computer errors occurred.
- Information was not shared between department divisions such as services staff.
- Data exchange reports were not acted upon timely (Wage Match, New Hires, BENDEX, etc.).

BAM 705, p. 1. If unable to identify the type record it as an agency error. BAM 705, p. 1.

In this case, the Department alleges that Respondent received an OI for her FIP benefits (agency error) because the Department failed to budget her income. While the Department's Notice of Overissuance noted client error, the Department's Hearing Summary indicated that the customer reported timely group size income assets and expenses.

As part of its evidence, the Department presented budgets to support its claim for OI as well as an Employment Budget Summary, which were reviewed at the hearing. Exhibits C and D. The budgets which were presented are not OI budgets as they do not show on the budget the amount of benefits received and the amount of benefits Respondent is actually entitled to. They are just corrected budgets. The only month that had a proven OI was February 2015. The budget used earned income of \$ [REDACTED] which was correct resulting in a net earned income of \$ [REDACTED] entitling Respondent for a monthly benefit amount of \$ [REDACTED] in FIP benefits. Apparently, the Respondent received \$ [REDACTED] in FIP benefits that month, and thus, owes \$ [REDACTED] to the Department. Although the undersigned ruled that the Department did not meet its burden of proof, after the hearing, looking at the budget amount Respondent was entitled to \$ [REDACTED] and the amount Respondent received \$ [REDACTED] based upon the OI summary, which resulted in an OI to the Respondent in the amount of \$ [REDACTED]. The Department is entitled to collect this OI even though it is based upon agency error as the Respondent received more benefits that she was entitled to receive.

For the month of March 2015 the Respondent owed no OI based on the budget presented. Exhibit D.

For the month of April 2015, the Department used the incorrect income when calculating the OI based on the employment budget summary income for that month. Exhibit C and D. Therefore, the Department did not meet its burden of proof with respect to April 2015 and is not entitled to any OI for April 2015.

The Department sought no OI for May 2015.

For June 2015, the Department used the incorrect income based upon the income reported on the employment budget summary; and the budget, therefore, is incorrect. Therefore, the Department did not meet its burden of proof. The Department is not entitled to an OI for June 2015. Exhibits C and D.

Finally, the Department submitted no budgets for July 2015 and August 2015, and thus, presented no proofs as to how the OI's for those months were computed. Based upon the evidence presented, the Department is not entitled to recoup any OI for those months.

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that the Department **did** establish an FIP benefit OI to Respondent for February 2015 only totaling \$ [REDACTED]. The Department did not establish an FIP benefit

OI for the remaining months as it did not establish the OI as the budgets presented were incorrect or missing.

**DECISION AND ORDER**

Accordingly, the Department is **AFFIRMED IN PART** with respect to an OI of \$ [REDACTED] for February 2015 and is **REVERSED IN PART** with respect to all remaining months the Department is not entitled to any OI.

The Department is ORDERED to initiate collection procedures for a \$ [REDACTED] OI for February 2015 in accordance with Department policy.

LMF/jaf



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

**NOTICE OF APPEAL:** A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088; 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

**DHHS**

[REDACTED]

**Respondent**

[REDACTED]

**cc:**

[REDACTED]