



RICK SNYDER  
GOVERNOR

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

MIKE ZIMMER  
DIRECTOR

[REDACTED]  
[REDACTED]  
[REDACTED]

Date Mailed: April 1, 2016  
MAHS Docket No.: 15-024703  
Agency No.: [REDACTED]  
Respondent: [REDACTED]

**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 March 3, 2016, from Detroit, Michigan. The Department was represented by [REDACTED], Recoupment Specialist.

Respondent did not appear. This matter having been initiated by the Department and due notice having been provided to Respondent, the hearing was held in Respondent's absence in accordance with Department of Health and Human Services Bridges Administrative Manual (BAM) 725 (October 2015), pp. 16-17.

### **ISSUE**

Did Respondent receive an over-issuance (OI) 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 for himself and three children, a group size of four. (Exhibit A, p. 10)
2. The Department alleges that [REDACTED] was Respondent's Living Together Partner (LTP) and resided in the same home as Respondent.

3. The Department alleges that Respondent and [REDACTED] each had their own active Food Assistance Program (FAP) cases, as they did not purchase or prepare food together.
4. The three children active on Respondent's FIP case were not [REDACTED] children.
5. The Department alleges that on February 26, 2010, [REDACTED] gave birth to Child A.
6. The Department alleges that Respondent was the father of Child A, however, the Department did not present any documentation to support this allegation.
7. The Department alleges that Respondent and [REDACTED] were married, however, the Department did not present any documentation to support this allegation and did not identify the date in which they were married.
8. The Department alleges that at the time of Child A's birth, the child and [REDACTED] became mandatory group members for Petitioner's FIP case.
9. The Department increased the group size on Petitioner's FIP case to six, effective June 1, 2011. (Exhibit A, p. 10)
10. On September 25, 2015, the Department sent Respondent a Notice of Overissuance alleging that he received an OI of FIP benefits totaling \$4119 for the period from May 1, 2010, to October 31, 2011, due to client error. The explanation of reason was that Petitioner failed to report mandatory group members and failed to report increased income. (Exhibit A, pp.4-9)
11. The Department alleges that Respondent received \$4119 FIP OI that is still due and owing to the Department.
12. On October 5, 2015, Respondent requested a hearing disputing the proposed recoupment action.

### **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 September 25, 2015, the Department sent Respondent a Notice of Overissuance informing him that from May 1, 2010, to October 31, 2011, the Department determined that he received a client error caused OI in FIP benefits in the amount of \$4119.

When a client group receives more benefits than they are entitled to receive, the Department must attempt to recoup the OI. BAM 700 (October 2015), 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 (October 2015), p. 6; BAM 705 (October 2015), p. 6.

At the hearing, the Department alleged that Respondent received a client error caused OI of the FIP because he failed to report that [REDACTED] had given birth to Child A on or around February 26, 2010, and further that he failed to report [REDACTED] income. The Department asserted that Respondent was the father of Child A, thereby making [REDACTED] and Child A mandatory group members on his FIP case pursuant to Department policy. The Department determines FIP group composition by applying the factors found in BEM 210. See BEM 210 (January 2010). While the Department established that Respondent and [REDACTED] had the same address and lived in the same home, the Department not present any documentary evidence that they were married or that they had a child (Child A) in common. The Department maintained that at one time, [REDACTED] changed her last name to reflect that of Respondent. The Department failed to present a marriage license or birth certificate showing that Respondent and [REDACTED] were Child A's legal parents. The Department presented a Notice of Case Action for [REDACTED] individual case which reflects that Child A was added to her FAP case and began receiving Medical Assistance benefits shortly after his birth.

Additionally, while an Investigation Report from the Office of Inspector General (OIG) was included in the Department's evidence packet, the agent who prepared the Report and allegedly interviewed Respondent was not present for the hearing and thus could not be questioned regarding the information contained in the Report. Therefore, any statements Respondent may have made during an interview with a representative from the OIG have been given little weight for purposes of this Hearing Decision.

Although there was some evidence presented and testimony provided at the hearing concerning how the Department calculated the FIP OI, because the Department failed to establish that [REDACTED] and Child A were mandatory FIP group members, the Department failed to establish that Respondent received a client error caused OI of FIP benefits based on his failure to report [REDACTED] and Child A in the home and based on his failure to report [REDACTED] income. Thus, the Department has failed to satisfy its burden in establishing that Respondent was overissued FIP benefits.

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that the Department **did not** establish a client error FIP benefit OI to Respondent totaling \$4119.

**DECISION AND ORDER**

Accordingly, the Department is REVERSED.

The Department is ORDERED to delete the \$4119 FIP OI and cease any recoupment and/or collection action.



ZB/tlf

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**Zainab Baydoun**  
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

[REDACTED]

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