

**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.: 15-023663
Issue No.: 1006
Agency Case No.: [REDACTED]
Hearing Date: February 02, 2016
County: GENESEE UNION ST

ADMINISTRATIVE LAW JUDGE: Susanne E. Harris

HEARING DECISION

Following the Petitioner'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; and Mich Admin Code, R 792.11002. After due notice, an in-person hearing was held on February 2, 2016, from Flint, Michigan. The Petitioner, [REDACTED] [REDACTED] appeared and was represented by her Authorized Hearing Representative (AHR), [REDACTED] [REDACTED] of Legal Services of Eastern Michigan. The Department was represented by Hearing Facilitator, [REDACTED] [REDACTED]

ISSUE

Did the Department properly determine that the Petitioner received an Over issuance (OI) of the Family Independence Program (FIP) benefits that the Department is entitled to recoup/collect?

FINDINGS OF FACT

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

1. The Petitioner was an ongoing recipient of monthly FIP benefits.
2. On April 23, 2015, the Departments foster care specialist sent an email to the Petitioner's caseworker explaining that the Petitioner was, at that time, eligible for foster care payment for the children in her care. The email further stated that the Petitioner collected FIP payments during the time of foster care eligibility. The Departments foster care specialist indicated that she was instructed to contact the worker to have to repay agreement signed.

3. On September 15, 2014, the Petitioner was issued a provisional foster care license, which expired March 14, 2015. The Petitioner was issued a regular foster care license on March 15, 2015, which will expire on March 14, 2017.
4. On April 29, 2015, the Department's worker sent the Petitioner a repay agreement.
5. On July 23, 2015, the Petitioner requested a hearing protesting the Department's assertion that she received an OI.
6. On September 23, 2015, the undersigned Administrative Law Judge conducted a hearing regarding the OI and ordered that the Petitioner's eligibility for FIP and Foster Care payments be determined back to September 2014.
7. On December 3, 2015, the Department received the Petitioner's AHR's written hearing request protesting the Department's determination that the Petitioner had received an OI of the FIP for July, August, October, November and December 2014.
8. On December 9, 2015, the Department produced a DHS-4701, Overissuance Referral indicating that the Petitioner received an OI of the FIP program from October, 2014 to December 2014.

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.

In this case, the Departments testimony on the record, consistent with the OI referral in evidence, indicates that the OI period in this case is from October 2014 to December 2014. The AHR indicated that she was not aware of the new OI period and she conceded that the Petitioner received an OI of benefits during October 2014 to December 2014. The OI period was not contested during the hearing. The OI referral has not yet been received by the recoupment specialist, so no amount of the actual OI has yet been determined.

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 Petitioner received an

OI of the FIP from October, 2014 to December, 2014. The Petitioner retains the right to request a hearing on the actual amount of the OI once it is been determined.

DECISION AND ORDER

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



Susanne E. Harris
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Mailed: **2/17/2016**

SEH/nr

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:

