



RICK SNYDER
GOVERNOR

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

MIKE ZIMMER
DIRECTOR

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Date Mailed: April 12, 2016
MAHS Docket No.: 14-019668
Agency No.: ██████████
████████████████████

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 three way telephone hearing was held on March 14, 2016, from Detroit, Michigan. The Department was represented by ██████████, Recoupment Specialist and ██████████, Hearings Facilitator. Respondent appeared for the hearing with his wife/Authorized Hearing Representative (AHR), ██████████ who also served as ██████████ Interpreter.

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.
2. Respondent's wife started employment at ██████████ (HCR) on September 7, 2012 and received her first paycheck on September 11, 2012.
3. On or around September 28, 2012, Respondent reported his wife's employment and income to the Department.

4. The Department did not include Respondent's wife's income in the FIP budget until February 2013.
5. On November 27, 2013, the Department sent Respondent a Notice of Overissuance alleging that he received an OI of FIP benefits totaling \$1791 for the period from November 1, 2012, to January 31, 2013, due to agency error. The explanation of reason was that client failed to report income timely and agency failed to budget income timely. (Exhibit A, pp.1-6)
6. The Department alleges that Respondent received a \$1791 FIP OI that is still due and owing to the Department.
7. On December 5, 2013, 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 November 27, 2013, the Department sent Respondent a Notice of Overissuance informing him that from November 1, 2012, to January 31, 2013, the Department determined that he received an agency error caused OI in FIP benefits in the amount of \$1791, as a result of the Department's failure to timely budget his wife's earnings from employment.

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.

The Department presented documentation to establish that during the period of November 1, 2012, to January 31, 2013, it issued \$1791 in FIP benefits to Respondent. The Department alleged that Respondent was eligible to receive \$0 in FIP benefits during this period which results in an OI of FIP benefits in the amount of \$1791. In support of its OI calculation, the Department presented verification of Respondent's wife's employment at HCR showing that she was hired on September 7, 2012, that she received her first paycheck on September 11, 2012, and that she continued to be employed and earning income throughout the OI period. The verification of employment details the amounts earned and pay dates.

The Department also presented FIP OI budgets for each month showing how the OI was calculated and properly determined that based on a first paycheck of September 11, 2012, the first month of the OI period would be November 2012. A review of the FIP OI budgets and the verification of employment information provided by the Department establishes that when Respondent's wife's earnings from employment are included in the calculation of the group's FIP benefits, the group was eligible to receive \$0 in FIP benefits for the period of November 1, 2012, through January 31, 2013.

Thus, the Department is entitled to recoup or collect from Respondent \$1791, the difference between the \$1791 in FIP benefits actually issued and the \$0 in FIP benefits he was eligible to receive.

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that the Department **did** establish a FIP benefit OI to Respondent totaling \$1791.

DECISION AND ORDER

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

The Department is ORDERED to initiate recoupment and/or collection procedures for a \$1791 agency error FIP OI in accordance with Department policy.



ZB/tlf

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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