



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: April 22, 2016  
MAHS Docket No.: 15-006237  
Agency No.: [REDACTED]  
Petitioner: MDHHS  
Respondent: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Jacquelyn A. McClinton**

**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 14, 2016, from Detroit, Michigan. The Department was represented by [REDACTED], Recoupment Specialist with the Office of Inspector General (OIG). The Respondent was represented by Respondent.

**ISSUE**

Did Respondent receive an over-issuance (OI) of FIP benefits from [REDACTED] through [REDACTED]?

**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 a FIP OI during the period [REDACTED] through [REDACTED] due to Respondent's error.
3. The Department alleges that Respondent received \$2,715.00 OI that is still due and owing to the Department.

**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.

This matter initially began as a result of the Department issuing a Notice of Case Action on [REDACTED] which notified Respondent that her FIP benefits would close effective [REDACTED] due to non-compliance in employment and/or self-sufficiency-related activities.

On [REDACTED], Respondent was sent a Client Benefit Notice which again notified her that her FIP benefits would close effective [REDACTED]. Respondent filed a timely hearing request which allowed her FIP benefits to continue beyond [REDACTED]. A hearing was set for [REDACTED].

The Notice of Hearing clearly instructed Respondent to appear at the local Department office. Respondent testified that she was told that the hearing would be a three way conference call which would have allowed her to participate from home. However, Respondent offered no evidence that she had been approved for a three way conference call. The Order of Dismissal has a hand written note stating "3 way call – judge denied rehearing." When orders are sent from the hearing office, they typically do not include handwritten notes. Additionally, there was no testimony provided as to who authored the note contained on the dismissal.

As previously stated, Petitioner testified that she did not receive the Order of Dismissal. However, the Order of Dismissal was sent to the same address as the Notice of Hearing. Respondent was clearly aware of the hearing date. There was no testimony presented that Respondent had any issues with her mail. Additionally, the Order of Dismissal essentially allowed the Department's prior action of closing Respondent's FIP benefits effective [REDACTED] to move forward. There was no evidence that Respondent contacted the Department to inquire why her FIP benefits ended. Respondent took no action following the dismissal until 2015, which was well beyond the allowable appeal period. The proper mailing and addressing of a letter creates a presumption of receipt which may be rebutted by evidence. *Stacey v Sankovich*, 19 Mich App 638 (1969); *Good v Detroit Automobile Inter-Insurance Exchange*, 67 Mich App 270 (1976).

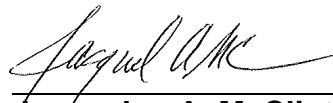
Because the Order of Dismissal was not timely appealed, the Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that the Department did establish a FIP benefit OI to Respondent totaling \$2,715.00.

**DECISION AND ORDER**

Accordingly, the Department is **AFFIRMED**.

The Department is **ORDERED** to initiate collection procedures for a FIP overissuance of \$2,715.00 in accordance with Department policy.

JM/hw



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**Jacquelyn A. McClinton**

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]

[REDACTED]

**Respondent**

[REDACTED]