



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

Date Mailed: [REDACTED]
MAHS Docket No.: 16-006408
Agency No.: [REDACTED]
Respondent: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 [REDACTED], from Detroit, Michigan. The Michigan Department of Health and Human Services (MDHHS) was represented by [REDACTED], hearing facilitator, and [REDACTED], recoupment specialist. Respondent appeared without representation.

ISSUE

The issue is whether MDHHS established a debt against Respondent for allegedly over-issued Family Independence Program (FIP) benefits.

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 an ongoing FIP benefit recipient.
2. Respondent was a FIP group member along with his minor child.
3. As of [REDACTED], Respondent's son received child support and RSDI.
4. Over the period from [REDACTED] through [REDACTED], Respondent received a total of \$3,511 in FIP benefits, in part, without factoring Respondent's child's income.

5. Over the period from [REDACTED] through [REDACTED], Respondent should have received a total of \$1,232 in FIP benefits.
6. On [REDACTED], MDHHS mailed a Notice of Overissuance (Exhibit 1, p. 108) to Respondent alleging an over-issuance (OI) of \$2,338 in FIP benefits, due to client error.
7. On [REDACTED], Respondent requested a hearing to dispute the alleged OI.
8. On [REDACTED], MDHHS mailed a Notice of Overissuance (Exhibit 1, p. 114) to Respondent alleging an OI of \$2,279 in FIP benefits, due to client error.
9. On [REDACTED], MDHHS requested a hearing to pursue debt collection against Respondent for a total of \$2,279 in allegedly over-issued FIP benefits.

CONCLUSIONS OF LAW

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193, and 42 USC 601 to 679c. MDHHS (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10 and 400.57a and Mich Admin Code, R 400.3101 to .3131. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

MDHHS requested a hearing to establish a debt against Respondent. MDHHS initially alleged Respondent received \$2,338 in over-issued FIP benefits. MDHHS subsequently reduced the alleged OI amount to \$2,279. The analysis will consider whether Respondent received \$2,279 in over-issued FIP benefits.

When the client group or CDC provider receives more benefits than entitled to receive, Michigan Department of Health and Human Services (MDHHS) must attempt to recoup the overissuance. BAM 725 ([REDACTED]), p. 1. Repayment of an overissuance is the responsibility of:

- Anyone who was an eligible, disqualified, or other adult in the program group at the time the overissuance occurred.
- A FAP-authorized representative if they had any part in creating the FAP overissuance

Id., p. 1.

Recoupment policies and procedures vary by program and overissuance type. BAM 715 ([REDACTED]) p. 1. When a potential overissuance is discovered, [MDHHS is to] do all of the following:

1. Take immediate action to correct the current benefits; see BAM 220, Case Actions, for change processing requirements.
2. Obtain initial evidence that an overissuance potentially exists.
3. Determine if it was caused by department, provider or client actions. [and]

4. Refer all client errors to the RS [recoupment specialist] within 60 days of suspecting or if a suspected overissuance exists

Id., p. 2

Within 60 days of receiving the referral, the RS must... determine if an overissuance actually occurred [and] determine the type. *Id.*, p. 3. Within 90 days of determining an overissuance occurred, the RS must:

- Obtain all evidence needed to establish it.
- Calculate the amount.
- Establish the discovery date.
- Send a DHS-4358A, B, C & D to the client.
- Enter the FIP, SDA, CDC or FAP overissuance on the Benefit Recovery System (BRS).
- Refer to OIG for investigation if IPV is suspected. [and]
- Send a DHS-4701A, Overissuance Referral Disposition, to the specialist explaining the final disposition.

[For agency error overissuances, MDHHS] must request the hearing on a closed case. BAM 705 (July 2014), p. 11. A hearing request on a DHS-4358D for a closed case requires the Recoupment Specialist to request a debt collection hearing, regardless of the total overissuance amount. *Id.* [MDHHS is to] complete a DHS-3050 indicating the hearing is for a debt collection issue. *Id.* [MDHHS is to] forward the DHS-4358A, -B, -C, and -D, DHS-3050 and all exhibits to MAHS. *Id.* See BAM 725 regarding evidence and debt collection hearing procedures. *Id.* A functionally equivalent policy applies for overissuances caused by client error (see BAM 715 (July 2014), p. 12).

MDHHS requests a debt collection hearing when the grantee of an inactive program requests a hearing after receiving the DHS-4358B, Agency and Client Error Information and Repayment Agreement. BAM 725 (October 2015), pp. 16-17. Active recipients are afforded their hearing rights automatically, but MDHHS must request hearings when the program is inactive; see BAM 705 or 715, HEARING REQUESTED, Inactive Cases. *Id.*, p. 17.

MDHHS alleged the current case was caused by client error. Specifically, MDHHS alleged Respondent failed to report his child's RSDI and child support income, which resulted in an OI of FIP benefits. MDHHS presented a Redetermination (Exhibit 1, pp. 39-44) to support the allegation.

Respondent testimony indicated he did not complete the Redetermination. Respondent further testified he was not at fault for a failure to not report his child's income. For purposes of this decision, Respondent's testimony will be accepted as accurate.

Overissuances may be pursued if they are client caused or agency caused. [For FIP benefits,] client and Agency errors are not pursued if the estimated amount is less than \$250 per program. BAM 700 (October 2015), p. 9.

The present case concerns an OI exceeding \$250. Thus MDHHS may pursue the OI even if caused by MDHHS error.

The overissuance period begins the first month (or pay period for CDC) benefit issuance exceeds the amount allowed by policy or 72 months before the date it was referred to the RS, whichever is later. *Id.*, p. 4. The amount of the overissuance is the benefit amount the group or provider actually received minus the amount the group was eligible to receive. *Id.*, p. 6. If improper reporting or budgeting of income caused the overissuance, [MDHHS is to] use actual income for that income source. *Id.*, p. 9.

MDHHS presented Respondent's FIP benefit history (Exhibit 1, pp. 51-58). The history listed Respondent received bi-monthly (twice per month) payments of \$79 throughout 2013 and for [REDACTED]. The history indicated Respondent received bi-monthly (twice per month) payments of \$66.50 from [REDACTED]. A supplement of \$127 for [REDACTED] was indicated. Over the period from January 2013 through [REDACTED] Respondent received a total of \$3,511 in FIP benefits.

MDHHS alleged the OI was caused by a failure to budget Respondent's child's income. MDHHS presented documentation of Respondent's child's income from the alleged OI period.

MDHHS presented a SOLQ (Exhibit 1, pp. 45-47) for Respondent's child. An SOLQ is a document obtained from a data exchange with SSA. The presented SOLQ indicated Respondent's child began to receive \$87/month in RSDI benefits beginning [REDACTED] and \$88/month in RSDI benefits beginning [REDACTED].

MDHHS presented Respondent's child support income history (Exhibit 1, pp. 48-50). Various payments of \$90 in "direct" child support from [REDACTED] through [REDACTED] were listed.

MDHHS presented a FIP budget from [REDACTED] (Exhibit 1, p. 59). The budget was presented for the purpose of showing how Respondent's FIP benefit eligibility was originally calculated. No child support or RSDI was budgeted.

Monthly FIP OI budgets from [REDACTED] through [REDACTED] (Exhibit 1, pp. 62-107) were presented. The budgets appeared to accurately factor Respondent's child's RSDI and child support income. The budgets indicated Respondent should have received a total of \$1,232 in FIP benefits from [REDACTED] through [REDACTED].

Presented evidence sufficiently verified Respondent's FAP group received \$2,279 in over-issued FIP benefits from [REDACTED] through [REDACTED]. It is found MDHHS established a debt against Respondent for \$2,279.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS established a debt against Respondent for \$2279 based on an overissuance of FIP benefits for the period from [REDACTED] through [REDACTED]. The actions taken by MDHHS are **AFFIRMED**.

CG/hw



Christian Gardocki
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 [REDACTED]; 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]