



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: November 28, 2016
MAHS Docket No.: 16-012507
Agency No.: [REDACTED]
Petitioner:
Respondent: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 October 19, 2016, from Detroit, Michigan. The Department was represented by [REDACTED], Hearing Facilitator. The Respondent was represented by her husband [REDACTED].

ISSUE

Did Respondent receive an over-issuance (OI) of FIP Case Assistance?

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 an FIP OI during the period [REDACTED], due to **Respondent's** error. Exhibit A
3. The Department alleges that Respondent received [REDACTED] OI that is still due and owing to the Department.

4. The Respondent applied for FIP on [REDACTED]. The Department alleges that the Respondent did not disclose earned income from his daughter, [REDACTED].
5. The Department received a wage match for earned income for [REDACTED], the Petitioner's daughter, who is not a U.S. citizen, was also a student and living with the Petitioner. Exhibit A.
6. The Respondent's daughter, [REDACTED], was not a citizen, receives ESO medical assistance and is not eligible for FIP.
7. The Petitioner completed a redetermination on [REDACTED] with an [REDACTED] due date.
8. The Department sent the Respondent a Notice of Over Issuance for FAP on [REDACTED]. Exhibit 1, pp. 2-6.
9. The Respondent requested a hearing on [REDACTED].

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.

Department policy states that DHHS 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 (July 2014), pp. 16-17. Active recipients are afforded their hearing rights automatically, but DHHS must request hearings when the program is inactive. BAM 725, p. 17 and see also BAM 715 (July 2014), pp. 11-12.

The over issuance amount is the benefit amount the group or provider actually received minus the amount the group was eligible to receive. In order to establish a client over issuance the amount must be more than \$250. BAM 715 (January 1, 2016) p. 6. A client error (which is alleged in the instant matter) exists when the client's timely request for hearing results in the suspension of the Michigan Department of Health and Human Services action and any of the following: the hearing decision upholds the MDHHS

action, the client withdraws the hearing request or the client fails to appear for the hearing which is not rescheduled.

Additionally, in this case the Department seeks to recoup FIP benefits received by the Respondent, which the Department alleged Respondent was not entitled to receive due to group income exceeding the FIP income limit. In this case the Department alleged that the Respondent should have reported his daughter's income who was working and going to college. Although she lived with the Petitioner, she was not a FIP group member. She is not a U.S. citizen, does not have a permanent resident card, was 20 years of age, was not a dependent child and the Department provides ESO only medical assistance to this daughter. Given these facts, that the Department did not rebut, the Petitioner's daughter is not eligible for FIP benefits and should not be included in the FIP EDG participation.

Income reporting requirements are limited to the following:

- Earned income:
 - Starting or stopping employment.
 - Changing employers.
 - Change in rate of pay.
 - Change in work hours of more than five hours per week that is expected to continue for more than one month.

BAM 105, p. 11.

Other changes must be reported within 10 days after the client is aware of them. BAM 105, p. 11-12. These include, but are not limited to, changes in day care needs or providers. BAM 105, pp. 7-8.

A review of Department policy regarding FIP cash assistance requirements regarding certified group members does not support the Department's determination that the Petitioner's daughter's income, who was 20 years old and not a U.S. citizen, should be included in the FIP EDG. Policy in BEM 210 provides:

The certified group means those individuals in the FIP EDG who meet all non-financial FIP eligibility factors. Countable income and assets of certified group members are considered in determining FIP eligibility. Certified group members have a FIP EDG participation status of Eligible Child or Eligible Adult. BEM 210, (January 1, 2016).

When cash assistance is requested for a dependent child, or a dependent child is a mandatory FIP EDG member, all of the following individuals who live together are in the FIP EDG:

- Dependent Child.

- Child's legal parent(s).
- Child's legal siblings who meet the definition of a dependent child (siblings have at least one legal parent in common).
- Legal parent(s) of the child's siblings.
- Child's legal stepparent, even after death of or divorce from the parent.
- Child's legal stepsiblings, who meet the definition of a dependent child, even after death of or divorce from the parent.
- Child's child. BEM (January 1, 2016), p. 5

A dependent child is defined as:

A dependent child is an unemancipated child who lives with a caretaker and is one of the following:

- Under age 18.
- Age 18 and a full-time high school student. See BEM 245, for definition of high school.

Because, in this case the Petitioner's daughter in question was 20, she is not a dependent child and thus is not part of the FIP EDG group.

The Department provided no budgets to demonstrate the overissuance of FIP benefits.

The Department's Notice of Overissuance sought an overissuance for [REDACTED]. Exhibit A. The Department provided income for the period of June 2015 through July of 2015 and no income for 2016. The Department did not provide a FIP budgets to demonstrate an OI. In addition, the Petitioner's daughter was not eligible for FIP benefits, as she is not a citizen, does not have a permanent resident card and receives ESO. In this status as a non citizen, and no permanent resident card, the daughter is also not eligible for FIP. BEM 225, (October 1, 2016) p.33.

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that the Department **did not** establish a FIP benefit OI to Respondent totaling [REDACTED]. The Department's proofs did not demonstrate any overissuance, and thus, the Department failed to meet its burden of proof.

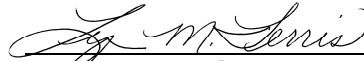
DECISION AND ORDER

Accordingly, the Department is

REVERSED.

The Department is ORDERED to cease collection procedures for a [REDACTED] OI and delete the OI in accordance with Department policy.

LF/hw



Lynn M. Ferris
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]