



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: December 29, 2016  
MAHS Docket No.: 16-015422  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE:** Christian Gardocki

**HEARING DECISION**

Following 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, a telephone hearing was held on [REDACTED], from [REDACTED] Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by [REDACTED], specialist.

**ISSUE**

The issue is whether MDHHS established a basis for recoupment of Food Assistance Program (FAP) 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. As of [REDACTED], Petitioner was an ongoing FIP recipient.
2. MDHHS failed to establish if Petitioner received an OI of FIP benefits in [REDACTED]
3. On [REDACTED], MDHHS mailed a Notice of Overissuance to Petitioner alleging Petitioner received an overissuance of \$ [REDACTED] in FAP benefits from [REDACTED] due to client error.
4. On [REDACTED], Petitioner requested a hearing to dispute the OI.

5. On [REDACTED], MDHHS mailed a Notice of Overissuance (Exhibit 1, p. 41) to Petitioner alleging Petitioner received an overissuance of \$[REDACTED] in FAP benefits over the months from [REDACTED] through [REDACTED], due to agency error.

### **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).

Petitioner submitted a Hearing Request for Overissuance or Recoupment Action (Exhibit 1, p. 5) to dispute an attempted recoupment of FIP benefits. MDHHS presented a Notice of Overissuance dated [REDACTED]. The notice informed Petitioner of a recoupment of \$[REDACTED] in FIP benefits issued to Petitioner for [REDACTED].

When a client group receives more benefits than it is entitled to receive, [MDHHS] must attempt to recoup the overissuance. BAM 700 (October 2016), p. 1. Within 90 days of determining an overissuance occurred, the RS [recoupment specialist] must: obtain all evidence needed to establish an overissuance, calculate the amount, send a DHS-4358A, B, C & D to the client, enter the programs on BRS, refer all suspected IPV overissuances to OIG for investigation, and send a DHS-4701A, Overissuance Referral Disposition, to the specialist explaining the final disposition of the error. *Id.*, p. 11.

[For FAP benefits,] active programs are subject to Administrative Recoupment (AR) for repayment of overissuances. BAM 725 (October 2016), p. 6. Administrative recoupment continues until program closure or all collectible overissuances are repaid. *Id.*

MDHHS contended the alleged OI was caused by Petitioner's failure to report employment. Petitioner responded that she reported the employment to a Michigan Works! Agency (MWA) in [REDACTED] and that the reporting should suffice as reporting to MDHHS. Presented evidence tended to verify Petitioner's response, however, fault of the OI is not relevant in the present case.

[For FIP benefits,] client and Agency errors are not pursued if the estimated amount is less than \$[REDACTED] per program. BAM 700 (October 2016), p. 9. The alleged overissuance of the present case exceeds \$[REDACTED] therefore, MDHHS may pursue the alleged overissuance of FAP benefits regardless of the party at fault.

MDHHS testimony alleged Petitioner received an OI of FAP benefits due to employment income not being reported in Petitioner's FAP determinations. MDHHS presented various documents to support the OI.

MDHHS presented an Overissuance Summary (Exhibit 1, p. 4). The summary stated Petitioner received \$[REDACTED] in FIP benefits for [REDACTED], and that she should have received \$[REDACTED] in FIP benefits.

MDHHS presented various earning statements (Exhibit 1, pp. 6-11) for Petitioner. The statements ranged in date from [REDACTED], through [REDACTED].

[For FAP and FIP benefits,] if improper budgeting of income caused the overissuance, [MDHHS is to] use actual income for the past overissuance month for that income source. BAM 705 (October 2015), p. 7. Any income properly budgeted in the issuance budget remains the same in that month's corrected budget. *Id.*

Presented evidence was suggestive that Petitioner received an OI of FIP benefits. Presented evidence was lacking in verifying the amount of OI. Most notably, MDHHS failed to present a FIP OI budget for [REDACTED]. Without a FIP OI budget, it cannot be known how MDHHS calculated the alleged OI. Further, MDHHS failed to provide income verification for the month of alleged OI. The MDHHS evidence failures renders it impossible to determine if MDHHS properly calculated the alleged OI of FIP benefits.

It is found MDHHS failed to establish an OI of \$[REDACTED] in FIP benefits to Petitioner for the benefit month of [REDACTED]. Accordingly, Petitioner's request to suspend and/or reverse recoupment actions will be granted.

### **DECISION AND ORDER**

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS failed to establish an overissuance of FIP benefits. It is ordered that MDHHS, within 10 days of the date of mailing of this decision:

- (1) Cease recoupment against Petitioner in the amount of \$[REDACTED] for an alleged overissuance from [REDACTED]; and
- (2) Supplement Petitioner for any benefits already recouped.

The actions taken by MDHHS are **REVERSED**.

CG/hw



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**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 (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]  
[REDACTED]  
  
[REDACTED]  
[REDACTED]

**Petitioner**

[REDACTED]  
[REDACTED]  
[REDACTED]