



RICK SNYDER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

SHELLY EDGERTON  
DIRECTOR

[REDACTED]  
[REDACTED]  
[REDACTED] MI [REDACTED]

Date Mailed: September 24, 2018  
MAHS Docket No.: 18-006155  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris**

**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; 42 CFR 438.400 to 438.424; 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 August 27, 2018, from Detroit, Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by Audrey Beverlin, Family Independence Specialist.

**ISSUE**

Did the Department properly determine and calculate the Family Independence Program (FIP) reimbursement amount due from Petitioner's lump sum Supplemental Security Income (SSI) payment from the Social Security Administration (SSA)?

**FINDINGS OF FACT**

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. The Petitioner was a recipient of FIP benefits from the Department beginning September 2016.
2. Petitioner began receiving SSI from the SSA due to disability on January 2018.
3. The Petitioner received a lump-sum SSI payment on or about January 23, 2018, in the amount of \$ [REDACTED]
4. The SSA confirmed a paid the Department \$ [REDACTED] for reimbursement of FIP benefits received by Petitioner out of the lump-sum payment. Exhibit C

5. The Petitioner received \$ [REDACTED] in SSI for February 2018 and March 2018, and a lump sum of \$ [REDACTED] on June 5, 2018, and currently receives \$ [REDACTED] monthly in SSI.
6. The Petitioner requested a timely hearing on June 11, 2018, seeking an accounting of the calculation of the FIP reimbursement amount paid to the Department and asserting that the reimbursement amount was an overpayment as it included her children and should have only included reimbursement for only herself as her children are still eligible.

### **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), Department of Health and Human Services Reference Tables Manual (RFT), and Department of Health and Human Services Emergency Relief Manual (ERM).

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-.3131.

In this case, the Petitioner sought an accounting from the Department of reimbursement funds paid to the Department by the SSA from Petitioner's lump-sum payment received for SSI when she became eligible in January 2018. The lump-sum payment made by SSA was for \$ [REDACTED] and the Department was repaid from that amount \$ [REDACTED] as reimbursement for Petitioner's FIP received. The Petitioner has sought an accounting from the Department which has gone unanswered and alleges that the grant reimbursement amount included not just reimbursement for herself but also her children. The hearing was previously adjourned at the request of the Department on August 1, 2018, so that the Department could provide supporting documentation from the Central Office payment reconciliation staff regarding the Inter-Assistance Reimbursement of what was paid to the Department. The Department also requested the adjournment so that a representative of the Central Office reconciliation staff could attend the hearing. The adjournment was granted on August 2, 2018, by Administrative Law Judge Janice Spodarek, who was then assigned, noting because the hearing summary and file prepared for the hearing "was so inadequate the Petitioner could not get a fair hearing". On the date set for the instant hearing, the Department representative from the Central Office, as requested as a basis for the original adjournment did not appear.

At the hearing, the Department did not present a clear explanation of how the FIP reimbursement amount was calculated so that the undersigned could make a

determination as to its correctness. The representative who appeared was not versed in the issues and was not prepared to explain how the reimbursement was calculated and presented a document which listed the Petitioner's FIP grant amounts, but could not give an explanation of the calculation was made. The explanation provided, at best, was confusing. Thus, the Department did not meet its burden of proof that the Department's reimbursement amount of \$ [REDACTED] was correct.

A recipient of SSI is not included in the FIP group as a FIP EDG member and has a participation status of Other Adult. The income, assets and needs of an SSI recipient are **not** considered in determining eligibility for the FIP EDG. However, their relationship to other EDG members are considered. As is the case here, the Petitioner, as an SSI recipient and parent, allows for FIP to be considered for the children in the EDG due to the parent-child relationship; however, the Petitioner cannot be in the certified group. BEM 210 (April 2017), pp. 4-10.

At the hearing, the Petitioner also asserted that she did not agree to reimburse the Department for FIP benefits she received. Based upon Department policy, a recipient of FIP benefits is required to assign any child support they receive after they are granted FIP benefits. Assignment is the agreement of head of household and parent to give to the state all rights to current and future court-ordered child support paid on behalf of a FIP recipient for the same time period. Assignment occurs when the individual completes and signs a DHS-1171 Assistance Application, BEM 255 (July 2018), pp. 15-16. Child support is certified (sent to the state) when it is paid for a period of time an individual was a dependent receive FIP as reimbursement for the FIP.

Repay agreements are required for most **lump-sum** payments (for example, inheritances, insurance settlements) and **accumulated benefits** paid retroactively (for example, Supplemental Security Income (SSI), Unemployment Compensation, Workers Compensation). See the BPG Glossary and the **LUMP SUMS AND ACCUMULATED BENEFITS** sections in BEM 400 and 500, BEM 272 (January 2018), p. 1.

Explain **all** of the following to clients required to repay state-funded FIP or SDA:

- Signing the appropriate form is a condition of eligibility, and failure to do so results in denial or closure.
- The client must report receipt of income from the potential source.
- The repayment amount is determined by a prescribed formula see, the Collection Of Repayments section in this item.
- The exact repay amount will be calculated when the benefit is received.

**Close the case or deny the application when the client refuses to sign a required repay agreement. BEM 272, p. 1**

In addition, the MDHHS-1171-INFO, Information Booklet, contains a reimbursement acknowledgment authorizing SSA to mail the retroactive SSI payment to DHS for repayment of interim state-funded FIP and SDA.

SSA tapes are electronically matched bi-weekly against Bridges to identify state-funded FIP and SDA recipients who are SSI applicants.

The automated system then sends SSA a tape identifying persons whom SSA does **not** have coded as state-funded recipients. SSA changes the coding to reflect the repayment authorization. (This process can take up to six weeks.) Complete a DHS-3975 for situations stated below, p. 2

- **SSI** checks are normally sent by SSA to the Reconciliation and Recoupment Section in central office for recovery actions. Reconciliation staff communicate information regarding the SSI to the locally designated IAR liaison, who forwards the information to the responsible worker for case actions. The liaison coordinates recovery actions with Reconciliation and Recoupment for retroactive SSI checks that are sent to the client or local office in error.
- The client must repay the regular, vendored and supplemental state-funded FIP and/or SDA, including SLA provider payments (BAM 430), paid during the interim assistance period. (This includes General Assistance (GA) paid before 10/1/91 and State Family Assistance (SFA) paid before 7/1/97.) BEM 272 (January 2018), p. 4
- For **accumulated benefits** (example: retroactive SSI), the state-funded FIP and/or SDA amount owed **or** the windfall amount covering the interim assistance period, whichever is **less**. BEM 272, pp. 4-5

Based upon BEM 272, the Petitioner is required to reimburse the Department for any FIP benefits she received out of the SSI lump sum payment and would not have received FIP benefits had she not agreed to do so.

Department policy in BEM 272 further explains the how the reimbursement from SSI is to be made as follows:

The calculation of the of the amount to be returned to the Department is determined as follows: When SSI is received by a client in a two-or-more person eligible group, determine the amount to be repaid by the following steps.

1. Calculate the interim state-funded FIP and/or SDA for all clients, disregarding any income, for **each** month in the interim assistance period.
2. Do the same calculation for the group less one person.

3. Attribute the difference in the amounts in steps 1 and 2 for **each** month to the SSI client.
4. Report the amount calculated for each month to the IAR liaison. The amount to be recovered each month will be based on the SSI amount received for each month. BEM 272, p. 5

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it failed to provide any accounting as to whether the FIP reimbursement amount paid to it from the Petitioner's SSI lump-sum payment was correctly calculated.

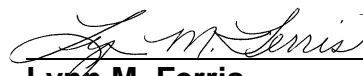
### **DECISION AND ORDER**

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

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. The Department shall provide an explanation and an accounting in writing to the Petitioner for the FIP reimbursement amount received by the Department from the SSA in the amount of \$ [REDACTED]

LMF/



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**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) 763-0155; 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**

Tolisha Bates  
MDHHS-Macomb-12-Hearings

**Petitioner**

[REDACTED]  
[REDACTED]  
[REDACTED] MI [REDACTED]

BSC4  
B Sanborn  
B Cabanaw  
C Gardocki  
MAHS