



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

SHELLY EDGERTON
DIRECTOR

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Date Mailed: November 2, 2018
MAHS Docket No.: 18-009873
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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. After due notice, a telephone hearing was held on November 1, 2018, from Lansing, Michigan. Petitioner represented herself. The Department was represented by Lynda Brown, Sandra Kahill, Mary McGrath, Deborah Piercefield, and Irma Carrillo.

ISSUE

Did the Department of Health and Human Services (Department) properly determine the repayment amount of Family Independence Program (FIP) benefits that were withheld from Petitioner's retroactive Supplemental Security Income (SSI) benefit payment?

FINDINGS OF FACT

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

1. On August 29, 2018, the Michigan Administrative Hearing System (MAHS) ordered the Department to recalculate the amount of Family Independence Program (FIP) benefits to be repaid by Petitioner to the Department in accordance with policy.
2. On September 7, 2018, the Department certified that the August 29, 2018, order had been fulfilled.
3. On September 18, 2018, the Department received Petitioner's request for a hearing.

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.

State-funded FIP and SDA clients must sign an agreement to repay interim assistance when pursuing a potential benefit. BEM 272 (January 2018), p. 1. 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). BEM 272, p. 1. 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. BEM 272, p. 4. The repay amount is one of the following: (i) for lump sum payments (example: insurance settlement), the SDA amount owed or the lump sum, whichever is less or (ii) 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, p. 4. The repay amount from retroactive SSI reflects only the interim assistance to the SSI individual. BEM 272, p. 4. When SSI is received by a client in a two-or-more person eligible group, the Department will determine the amount to be repaid by calculating the interim state-funded FIP amount for all clients, disregarding any income, for each month in the interim assistance period and deduct the amount a FIP group would be entitled to receive less one person. BEM 272, p. 5.

The Department's representative conceded that the September 7, 2018, certification (DHS-1843) was incomplete because only child support from one county had been considered and not the child support from another county. The Department's representative conceded that the amount of cash assistance that the Department recouped from Petitioner's SSI payment had been miscalculated.

Therefore, the Department did not act in accordance with policy when calculating the amount of FIP benefits that were repaid to the Department that was deducted from Petitioner's SSI retroactive payment.

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. Recalculate the amount of FIP benefits to be repaid by Petitioner to the Department in accordance with Department policy for the period of December 1, 2016, through August 31, 2017.
2. Issue supplements on Petitioner's behalf that she is entitled to receive in accordance with Department policy.
3. And notify Petitioner of its decision in writing.

KS/hb



Kevin Scully
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

Lauren Casper
27690 Van Dyke
Warren, MI 48093

Macomb County (District 20), DHHS

BSC4 via electronic mail

B. Cabanaw via electronic mail

Petitioner

[REDACTED]
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[REDACTED], MI [REDACTED]