



GRETCHEN WHITMER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ORLENE HAWKS  
DIRECTOR

[REDACTED]  
[REDACTED]  
[REDACTED]

Date Mailed: August 15, 2019  
MOAHR Docket No.: [REDACTED]  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Alice C. Elkin**

### **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 7, 2019, from Detroit, Michigan. Petitioner appeared and represented himself. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearing Facilitator.

### **ISSUE**

Was the Department properly reimbursed from Petitioner's social security benefits for Family Independence Program (FIP) payments made to Petitioner by the Department?

### **FINDINGS OF FACT**

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

1. Petitioner applied for FIP on September 29, 2016 (Exhibit A, pp. 7-44).
2. Petitioner was approved for FIP benefits beginning October 2016 and was deferred from the FIP work requirements due to incapacity (Exhibit B).
3. In April 2017, Petitioner applied for social security benefits from the Social Security Administration (SSA).
4. On September 8, 2018, Petitioner reapplied for FIP (Exhibit A, pp. 45-53).
5. He received FIP benefits beginning October 1, 2018 and was deferred from the FIP work requirements due to incapacity (Exhibit B).

6. On January 17, 2019, the Department sent Petitioner a Medical Determination Verification Checklist requesting that he submit, in part, a completed DHS-3975, reimbursement authorization. The Checklist advised Petitioner that if he did not submit all requested documents, his FIP case would close. (Exhibit A, pp. 57-58.)
7. On February 4, 2019, the Department sent Petitioner a Notice of Case Action notifying him that, because he failed to return the requested verifications, his FIP case was closing effective March 1, 2019 (Exhibit A, pp. 59-63).
8. On June 14, 2019, the Social Security Administration (SSA) sent Petitioner a letter notifying him that he was due back Supplement Security Income (SSI) of [REDACTED] for the period May 2017 to May 2019 but [REDACTED] from this amount would be paid to the Department based on his written agreement to repay (Exhibit 1).
9. On June 17, 2019, the Department received Petitioner's request for hearing disputing the Department's right to reimbursement from his SSI (Exhibit A, pp. 3-4).

### **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.

The June 14, 2019 letter from SSA to Petitioner notified him that he was due back SSI of [REDACTED] but [REDACTED] from this amount would be paid to the Department based on his written agreement to repay (Exhibit 1). Petitioner disputed the Department's recoupment of [REDACTED] from his SSA award as repayment of FIP payments made to him by the Department.

As a condition of FIP eligibility, individuals must apply for any state and/or federal benefits for which they may be eligible. BEM 270 (January 2018), p. 1. Recipients of state-funded FIP must sign an agreement to repay the Department from any accumulated retroactive SSI benefits received for any interim FIP assistance paid by the Department to the recipients. BEM 272, p. 1.

The June 14, 2019 letter from SSA to Petitioner informed Petitioner that he was entitled to accumulated retroactive SSI benefits of [REDACTED] for May 2017 through May 2019 and

that, based on his agreement to repay the Department, ██████ was paid to the Department and the remaining ██████ would be paid out to him in installments. (Exhibit 1.) Petitioner argued that he had never signed a repay agreement with the Department and, as such, the Department was not entitled to repayment of any FIP benefits he had received from his accumulated retroactive SSI benefits.

Department policy provides that there are three types of repay agreements:

- MDHHS-1171, Assistance Application;
- DHS-3975, Reimbursement Authorization; or
- DHS-2157, Repay Agreement

BEM 272, p. 2.

With respect to MDHHS-1171 applications, policy explains that the MDHHS-1170-INFO, information booklet, contains a reimbursement acknowledgment authorizing SSA to mail the retroactive SSI payment to the Department for repayment of interim state-funded FIP. BEM 272, p. 2. A DHS-3975 reimbursement authorization may be used only when SSI is the potential benefit source, but it is usually not needed if the client applied for SSI before applying for state-funded FIP because, in that case, the MDHHS-1171 serves as the repay agreement. BEM 272, p. 3.

Here, the Department presented two applications for cash assistance Petitioner submitted to the Department, the first on September 29, 2016 and the other on September 6, 2018 (Exhibit A, pp. 7 -44; 45-53). The September 29, 2016 application included language advising Petitioner that, if he received state-funded FIP, he agreed to repay the Department if he received retroactive SSI (Exhibit A, p. 40). The instructions for the September 6, 2018 online application advised Petitioner that he had to read the information booklet before signing the assistance application; the online information booklet also provided that Petitioner agreed to repay the Department if he received a lump sum SSI payment. [https://www.michigan.gov/documents/mdhhs/MDHHS-1171\\_Assistance\\_Information\\_Booklet\\_616031\\_7.pdf](https://www.michigan.gov/documents/mdhhs/MDHHS-1171_Assistance_Information_Booklet_616031_7.pdf).

The applications Petitioner completed and submitted to the Department sufficiently established Petitioner's obligation to repay the Department from his retroactive SSI accumulated benefit for the state-funded FIP benefits he received for the period after the applications were signed until his case closed. Therefore, the fact that Petitioner refused to sign the DHS-3975 reimbursement form did not preclude the Department from receiving repayment from SSA.

Under Department policy, the Department is entitled to repayment of regular and supplemental state-funded FIP benefits it pays to a client during the interim assistance period. BEM 272, p. 4. For SSI accumulated benefits, the interim assistance period begins with the state-funded FIP pay period containing the retroactive SSI begin date and ends with the last interim assistance payment issued by the Department before the

SSI accumulated benefits was received by the Department (unless a payment has been prepared and it is too late to stop the payment from being mailed in which case the interim assistance period includes this payment). BEM 272, pp. 4-5. If the SSI begin date precedes the date the MDHHS-1171 or DHS-3975 was signed, the interim period begin date is the date the MDHHS-1171 or DHS-3975 was signed. BEM 272, p. 5.

In this case, Petitioner received state-funded FIP payments during those months he received a FIP payment and was deferred from participation in the FIP work requirements due to verified disability or long-term incapacity lasting more than 90 days. BEM 234 (July 2013), p. 3. A review of the Michigan FIP Time Limit counter shows that Petitioner received FIP and was deferred from work participation to to incapacity from June 2017 through August 2018 (Exhibit B). SSA issued accumulated SSI benefits to Petitioner covering the period May 2017 to May 2019. Thus, the interim assistance period runs from June 2017, the first date with a state-funded FIP pay period to Petitioner that contains the retroactive SSI begin date, through August 2018, the last state-funded FIP payment made before the SSA payment. During these months, Petitioner received █████ in monthly FIP except for January 2018 through March 2018 when he received █████ in monthly FIP and April 2018 when he received \$████ in FIP (Exhibit C). The sum of the payments exceed █████. Therefore, the Department has established that it is entitled to at least the █████ payment from Petitioner's SSI accumulated benefit.

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 acted in accordance with Department policy when it was repaid from SSA for state-funded FIP payments it made to Petitioner.

### **DECISION AND ORDER**

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



AE/tm

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**Alice C. Elkin**  
Administrative Law Judge  
for Robert Gordon, 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 Office of Administrative Hearings and Rules (MOAHR).

A party may request a rehearing or reconsideration of this Order if the request is received by MOAHR 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. MOAHR will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MOAHR. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MOAHR Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Office of Administrative Hearings and Rules  
Reconsideration/Rehearing Request  
P.O. Box 30639  
Lansing, Michigan 48909-8139

**DHHS**

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

**Petitioner**

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

**cc:**

[REDACTED]  
[REDACTED]