



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]

Date Mailed: March 18, 2020
MOAHR Docket No.: 20-000700
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; 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 March 5, 2020, from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Eric Murphy, specialist.

ISSUE

The issue is whether MDHHS properly collected \$3,430 for repayment of Family Independence Program (FIP) benefits following Petitioner's approval for disability benefits 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. From October 2018 through January 2020, Petitioner received \$403 in monthly FIP benefits as a member of a group that included her minor child.
2. On [REDACTED] 2018, Petitioner applied for disability-related benefits from the SSA.
3. On [REDACTED] 2019, Petitioner signed an agreement to repay benefits received while her application for disability-related benefits was pending.
4. On an unspecified date, SSA approved Petitioner for disability-related benefits, including a retroactive approval for Supplemental Security Income (SSI) beginning November 2018.

5. On January 17, 2020, SSA paid MDHHS \$3,430 for repayment of FIP benefits issued to Petitioner.
6. On January 17, 2020, Petitioner requested a hearing to dispute the \$3,430 payment by SSA to MDHHS.

CONCLUSIONS OF LAW

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. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner testified that she requested a hearing to dispute a reduction in her award of retroactive SSI benefits from SSA. Petitioner presented an award letter from SSA stating that MDHHS was paid \$3,430 for repayment of benefits. Exhibit A, p. 10.

Petitioner's written hearing request was vague. It stated that she was in need of cash assistance and referenced a voluntary closure of FIP benefits and a subsequent change of heart. Given Petitioner's statements, Petitioner seemed to dispute a closure of FIP benefits rather than a \$3,430 payment to MDHHS. Also, Petitioner filed her hearing request before she even received written notice that \$3,430 of her retroactive SSI benefits would be sent to MDHHS, and before knowing how much would that SSA would pay to MDHHS. Petitioner testified that, when she requested a hearing, she knew SSA would send MDHHS part of her award because someone from SSA had told her. Though Petitioner provided MDHHS with questionable notice of her dispute, as well as Petitioner's dispute being debatably unripe for hearing, Petitioner's hearing request will be accepted as a valid dispute over whether MDHHS properly intercepted a \$3,430 of Petitioner's retroactive SSI benefit award.

State-funded FIP 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 and accumulated benefits paid retroactively (such as retroactive SSI benefits). *Id.*

The client must repay state-funded FIP paid during the interim assistance period. *Id.*, p. 4. For accumulated benefits (example: retroactive SSI), the repay amount is the state-funded FIP amount owed or the windfall amount covering the interim assistance period, whichever is less. *Id.* For SSI accumulated benefits, the interim assistance period begins with the state-funded FIP pay period containing the retroactive SSI begin date. *Id.*

Petitioner signed a Repay Agreement on [REDACTED] 2019. *Id.* In the agreement, Petitioner agreed, if retroactive SSI benefits were received, to repay MDHHS “for any duplicated interim assistance advanced while the claim for SSI was pending”.

During the hearing, Petitioner repeatedly claimed that she was unaware of her obligation to repay FIP benefits to MDHHS. Petitioner’s argument seemed to be based on a misunderstanding of “interim assistance”. Petitioner interpreted “interim assistance” as a specific program offered by MDHHS (i.e. Petitioner interpreted “interim assistance” as the Interim Assistance Program). A proper interpretation of “interim assistance” is the cash assistance received by Petitioner during the interim period that her application for disability benefits was pending with SSA.

Given the evidence, Petitioner received proper notice of the obligation to repay MDHHS for interim cash assistance. Petitioner also disputed the amount of interim assistance recouped by MDHHS: \$3,430.

For FIP benefits, MDHHS is entitled to recoup interim assistance beginning the pay period of SSI entitlement. Documentation from SSA listed an SSI date of entitlement for Petitioner of November 1, 2018. Exhibit A, p. 3. Thus, FIP benefits issued to Petitioner beginning November 1, 2018 were recoupable. Petitioner received FIP benefits continuously from November 2018 through December 2019; this is the interim assistance period.

Documentation of Petitioner’s past FIP issuances listed \$403 in monthly FIP benefits to Petitioner from November 2018 through December 2019 as a member of a 2-person group. Exhibit A, pp. 5-9. Petitioner’s FIP-benefit group also included her child. When SSI is received by a client in a two-or-more person eligible group, MDHHS is to determine the amount to be repaid by the following steps:

- Calculate the interim state-funded FIP and/or SDA for all clients, disregarding any income, for each month in the interim assistance period.
- Do the same calculation for the group less one person.
- Attribute the difference in the amounts in steps 1 and 2 for each month to the SSI client.
- Report the amount calculated for each month to the IAR liaison.

The total amount of state-funded FIP received by Petitioner during the interim assistance period is calculated by multiplying Petitioner’s monthly FIP grant of \$403 by the 14 month period. This amount is \$5,642.


If Petitioner was not in the FIP group, her minor child would be the only member of the group. Under such a circumstance, Petitioner would be eligible to receive FIP benefits as an ineligible grantee (see BEM 210) for her child. The ineligible grantee FIP grant for a group size of one person is \$158. RFT 210 (April 2017) p. 1. Multiplying Petitioner’s 14-month interim assistance period by \$158 results in a total amount of \$2,212 in FIP benefits that would have been issued to Petitioner if she were not a group member.

Subtracting the amount of FIP benefits that Petitioner would have received if not a group member (\$2,212) from the total FIP benefits issued (\$5,642) results in a recoupable amount of \$3,430; the same amount was recouped by MDHHS. Thus, MDHHS properly recouped Petitioner's SSI accumulated benefits.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly intercepted \$3,430 in benefits from Petitioner's retroactive SSI payment. The actions taken by MDHHS are **AFFIRMED**.

CG/cg



Christian Gardocki
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

Via Email:

MDHHS-Wayne-41-Hearings
B. Sanborn
B. Cabanaw
BSC4- Hearing Decisions
MOAHR

Petitioner – Via First-Class Mail:

