

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HEALTH AND HUMAN SERVICES**

IN THE MATTER OF:



Reg. No.: 15-011328
Issue No.: 3006
Case No.: [REDACTED]
Hearing Date: August 18, 2015
County: MARQUETTE

ADMINISTRATIVE LAW JUDGE: Gary Heisler

HEARING DECISION

Upon a hearing request by the Department of Health and Human Services (Department) to establish an over-issuance (OI) of benefits to Respondent, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9, 400.43a, and 24.201, *et seq.*, and Mich Admin Code, R 400.941, and in accordance with 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 August 18, 2015, from Lansing, Michigan. Participants on behalf of the Department included RS [REDACTED].

Respondent did not appear. This matter having been initiated by the Department and due notice having been provided to Respondent, the hearing was held in Respondent's absence in accordance with Department of Human Services Bridges Administrative Manual (BAM) 725.

ISSUE

Did Respondent receive a \$ [REDACTED], Agency Error over-issuance of Food Assistance Program benefits from July 1, 2014 to June 30, 2015?

FINDINGS OF FACT

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

1. Respondent was a recipient of Food Assistance Program benefits from the Department.
2. July 1, 2014 to June 30, 2015 has been properly determined as the over-issuance period caused by this Agency Error.

3. Due to Agency Error of not disqualifying Respondent based on the multiple felony drug convictions he reported, Respondent received a \$ [REDACTED] over-issuance of Food Assistance Program benefits during the over-issuance period.
4. On June 18, 2015, Respondent was sent a Notice of Over-Issuance (DHS-4358).
5. On June 27, 2015, Respondent submitted a hearing request.
6. On July 13, 2015, the Department requested this Debt Establishment hearing on behalf of Respondent.

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), and Department of Health and Human Services Reference Tables Manual (RFT).

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food and Nutrition Act of 2008, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 273. The Department (formerly known as the Department of Human Services) administers FAP pursuant to MCL 400.10; the Social Welfare Act, MCL 400.1-.119b; and Mich Admin Code, R 400.3001 to .3011.

The State Disability Assistance (SDA) program is established by the Social Welfare Act, MCL 400.1-.119b. The Department of Health and Human Services (formerly known as the Family Independence Agency) administers the SDA program pursuant to 42 CFR 435, MCL 400.10 and Mich Admin Code, R 400.3151-.3180.

Bridges Administration Manual (BAM) 725 Collection Actions states that when the client group or CDC provider receives more benefits than entitled to receive, DHHS must attempt to recoup the over-issuance. Additionally, anyone who was an eligible, disqualified, or other adult in the program group at the time the over-issuance occurred is responsible for repayment of the over-issuance.

DHHS requests a debt collection hearing when the grantee of an inactive program requests a hearing after receiving the DHS-4358B, Agency and Client Error Information and Repayment Agreement. Active recipients are afforded their hearing rights automatically, but DHS must request hearings when the program is inactive.

The Department submitted Redeterminations (DHS-1010) dated August 2012, 2013 and 2014 that Respondent submitted to the Department prior to the alleged over-issuance period. This application is sufficient to establish that Respondent was provided the recoupment responsibilities of receiving assistance.

Over-issuance Period

Agency Error

BAM 705 Agency Error Over-Issuances, states that the over-issuance period begins the first month (or pay period for CDC) benefit issuance exceeds the amount allowed by policy or 12 months before the date the over-issuance was referred to the RS, whichever 12 month period is later.

To determine the first month of the over-issuance period for changes reported timely and not acted on, Bridges allows time for:

The full standard of promptness (SOP) for change processing, per BAM 220.

The full negative action suspense period.

The over-issuance period ends the month (or pay period for CDC) before the benefit is corrected.

The Department failed to disqualify Respondent beginning August 2012 when he reported multiple felony drug convictions. Applying the over-issuance period definition, the over-issuance period began July 1, 2014.

Over-issuance Amount

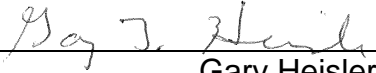
BAM 705 Agency Error Over-Issuances and BAM 715 Client/CDC Provider Error Over-Issuances, states the over-issuance amount is the benefit amount the group actually received minus the amount the group was eligible to receive. The Department presented a benefit summary showing that the State of Michigan issued a total of \$ [REDACTED] of Food Assistance Program benefits to Respondent during the over-issuance period. Respondent was actually eligible for \$ [REDACTED]. Respondent received a \$ [REDACTED] over-issuance of Food Assistance Program benefits.

A detailed analysis of the evidence presented, applicable Department policies, and reasoning for the decision are contained in the recorded record.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department has established that Respondent received a \$ [REDACTED] Agency Error over-issuance of Food Assistance Program benefits. The Department may pursue collection of these over-issuances in accordance with Department policy.

Accordingly, the Department is UPHeld.



Gary Heisler
Administrative Law Judge
For Nick Lyon, Director
Department of Health and Human Services

Date Signed: **8/20/2015**

Date Mailed: **8/20/2015**

GFH / [REDACTED]

NOTICE OF APPEAL: The law provides that within 30 days of receipt of the above Hearing Decision, the Respondent may appeal it to the circuit court for the county in which he/she lives or the circuit court in Ingham County. A copy of the claim or application for appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (MAHS) within 30 days of the mailing date of this Hearing Decision, or MAHS may order a rehearing or reconsideration on its own motion.

MAHS may grant a party's Request for Rehearing or Reconsideration when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;

- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The party requesting a rehearing or reconsideration must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088 and be labeled as follows:

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

cc:

