



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
Christopher Seppanen
Executive Director

SHELLY EDGERTON
DIRECTOR



Date Mailed: May 6, 2016
MAHS Docket No.: 15-016075
Agency No.: [REDACTED]
Petitioner: [REDACTED]

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 Petitioner, 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 May 5, 2016, from Lansing, Michigan. Participants on behalf of the Department included Recoupment Specialist [REDACTED]. Respondent did not appear and the hearing proceeded in his absence.

ISSUE

Did Petitioner/Respondent receive a \$ [REDACTED] Agency Error over-issuance of Food Assistance Program benefits from May 5, 2015 to August 31, 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 from May 5, 2015 to August 31, 2015.
2. May 5, 2015 to August 31, 2015 has been properly determined as the over-issuance period caused by this Agency Error.
3. Due to Agency Error of approving Respondent for Food Assistance Program (FAP) benefits even though he was ineligible under Bridges Eligibility Manual (BEM) 203 Criminal Justice, he received a \$ [REDACTED] over-issuance of Food Assistance Program benefits during the over-issuance period.

4. On August 21, 2015, Respondent was sent a Notice of Over-Issuance (DHS-4358).
5. On September 3, 2015, Respondent submitted a hearing request.
6. On September 9, 2015, the Department requested this Debt Establishment hearing on behalf of Respondent.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), and Department of 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.

Bridges Administration Manual (BAM) 725 Collection Actions states that when the client group or CDC provider receives more benefits than entitled to receive, DHS 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 DHHS must request hearings when the program is inactive.

The Department submitted an Assistance Application (DHS-1171) dated May 5, 2015 that Respondent signed and 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 first pay period for CDC) when 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. In this case benefits were issued from May 5, 2015, the date of Respondent's application. The Department incorrectly approved

Respondent in spite of the fact that he was ineligible in accordance with Bridges Eligibility Manual (BEM) 203 Criminal Justice.

Over-issuance Amount

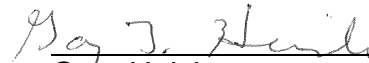
BAM 705 Agency Error Over-Issuances and BAM 715 Client/CDC Provider Error Over-Issuances, states the over-issuance amount is the benefit amount the group actually received minus the amount the group was eligible to receive. The Department presented a benefit summary showing that the State of Michigan issued a total of \$ [REDACTED] in Food Assistance Program (FAP) benefits to Respondent during the over-issuance period. Respondent was actually not eligible for any Food Assistance Program (FAP) benefits. Respondent received a \$ [REDACTED] over-issuance of Food Assistance Program (FAP) benefits.

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 has established that Respondent received a \$ [REDACTED] over-issuance of Food Assistance Program (FAP) benefits in accordance with Department policy.

DECISION AND ORDER

Accordingly, the Department's is **UPHELD**.

GH/nr



Gary Heisler
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) 335-6088; 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

[REDACTED]

Respondent

[REDACTED]