



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: May 24, 2016
MAHS Docket No.: 15-017953

Agency No.: [REDACTED]
Petitioner:
Respondent: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

HEARING DECISION

Upon the request for a hearing by the Department of Health and Human Services (Department), this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9, and in accordance with Titles 7, 42 and 45 of the Code of Federal Regulation (CFR), particularly 7 CFR 273.16 and 45 CFR 235.110; and with Mich Admin Code, R 400.3130 and 400.3178. After due notice, a telephone hearing was held on [REDACTED], from Detroit, Michigan. The Department was represented by, [REDACTED], Recoupment Specialist. The 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 Health and Human Services Bridges Administrative Manual (BAM) 725 (July 2014), pp. 16-17.

ISSUE

Did Respondent receive an overissuance (OI) of Food Assistance Program (FAP) benefits?

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 FAP benefits from the Department.
2. The Department alleges Respondent received an FAP OI during the period [REDACTED], through [REDACTED], due to **Department's** error.

3. The Department alleges that Respondent received an FAP OI of \$ [REDACTED] that is still due and owing to the Department.
4. The Department sent the Respondent a Notice of Overissuance for FAP on [REDACTED]. Exhibit 1, pp. 2-9.
5. The Respondent requested a hearing on [REDACTED].

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 .3015.

Additionally, in this case the Department seeks to recoup FAP benefits issued to the Respondent, which it alleges the Respondent was not entitled to receive due to the Respondent having two prior drug-related felony convictions. BEM 203, (October 1, 2015). The Department conceded that the OI resulted due to an Agency Error as the Department was notified at redetermination by the Respondent that he had one or more drug-related felonies on his Redetermination. The Redetermination was dated [REDACTED], [REDACTED] and the drug-related felony was reported on the Redetermination. Exhibit 1, p. 14. The Respondent also reported a drug-related felony at application as well. The Department alleges that during the period [REDACTED], through [REDACTED], the Petitioner received \$ [REDACTED] in FAP that he was ineligible to receive. Exhibit 1, pp. 6-7.

Department policy states that 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. BAM 725 (July 2014), pp. 16-17. Active recipients are afforded their hearing rights automatically, but DHHS must request hearings when the program is inactive. BAM 725, p. 17, and see also BAM 715 (July 2014), pp. 11-12.

An **agency error** is caused by incorrect actions (including delayed or no action) by the Michigan Department of Health and Human Services (MDHHS) staff or Department processes. Some examples are:

- Available information was not used or was used incorrectly. BAM 715 (January 1, 2016), p. 1

In this case, the Department presented evidence of two prior drug-related felony convictions on a Michigan Department of Corrections information sheet indicated a conviction on [REDACTED], and [REDACTED]. Exhibit 1, pp. 8-9. In addition, the Department provided a Benefit Summary Inquiry showing the amount of FAP benefits received during the period [REDACTED] through [REDACTED]. Exhibit 1, pp. 6-7. Thus, the Department has established an overissuance in the amount of \$ [REDACTED]. The Department also properly computed the OI period as the Petitioner was not eligible at any time due to his reported drug-related felonies. See BAM 705, pp. 5-6.

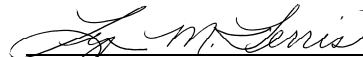
The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that the Department **did** establish an FAP benefit OI to Respondent totaling [REDACTED].

DECISION AND ORDER

Accordingly, the Department is **AFFIRMED**.

The Department is ORDERED to initiate collection procedures for a \$ [REDACTED] OI in accordance with Department policy.

LMF/jaf



Lynn M. Ferris

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]

CC:

[REDACTED]