



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 23, 2016
MAHS Docket No.: 15-008949
Agency No.: [REDACTED]
Respondent: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Kevin Scully

HEARING DECISION

Following Respondent'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; 45 CFR 99.1 to 99.33; and 45 CFR 205.10 After due notice, telephone hearing was held on May 17, 2016, from Lansing, Michigan. Participants on behalf of the Department of Health and Human Services (Department) included [REDACTED] (Recoupment Specialist). On April 13, 2016, the hearing was adjourned because the Notice of Debt Collection Hearing was not properly sent to the Department.

Respondent did not appear at the hearing on May 17, 2016. This matter having been initiated by the Department and due notice having been provided to Respondent, the hearing was held in Respondent's absence.

ISSUE

Did the Department properly determine that the Respondent received an overissuance 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. On April 26, 2014, the Department received the Respondent's application for Food Assistance Program (FAP) benefits. Exhibit A, pp 2 – 14.
2. The Respondent did not report any income on his April 26, 2014, application for benefits. Exhibit A, pp 11 – 12.

3. The Respondent started new employment on May 15, 2014, but did not report it to the Department, and this employment continued through October 4, 2014. Exhibit A, pp 38 – 40.
4. The Respondent received \$ [REDACTED] of Food Assistance Program (FAP) benefits in July of 2014. Exhibit A, p 44.
5. On June 16, 2014, the Department sent the Respondent a New Hire Client Notice (DHS-4635) requesting verification of his employment, which was not returned to the Department. Exhibit A, pp 15 – 19.
6. The Respondent was an ongoing Food Assistance Program (FAP) recipient from August 1, 2014, through April 30, 2015, receiving benefits totaling \$ [REDACTED] Exhibit A, pp 44 – 45.
7. The Respondent would not have been eligible for any of the Food Assistance Program (FAP) benefits he received from July 1, 2014, through April 30, 2015, if his earned income from employment had been applied towards the Department's determination of his eligibility. Exhibit A, pp 46 – 66.
8. On May 19, 2015, the Department sent the Respondent a Notice of Overissuance (DHS-4358), which notified him of the Department's intentions to recoup \$ [REDACTED] of Food Assistance Program (FAP) benefits for the period of July 1, 2014, through July 31, 2014, due to client error. Exhibit A, pp 68 – 72.
9. On May 19, 2015, the Department sent the Respondent a Notice of Overissuance (DHS-4358), which notified him of the Department's intentions to recoup \$ [REDACTED] of Food Assistance Program (FAP) benefits for the period of August 1, 2014, through April 30, 2015. Exhibit A, pp 74 – 78.

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 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-.3011.

When a client group receives more benefits than it is entitled to receive, the Department must attempt to recoup the overissuance. An agency error is caused by incorrect action (including delayed or no action) by Department staff or Department processes. A client error occurs when the client received more benefits than they were entitled to because the client gave incorrect or incomplete information to the department. Client and agency errors are not pursued if the estimated amount is less than \$250 per program. Department of Health and Human Services Bridges Administrative Manual (BAM) 700 (May 1, 2014), pp 1-9.

Overissuance balances on inactive cases must be repaid by lump-sum or monthly cash payments unless collection is suspended. Department of Health and Human Services Bridges Administrative Manual (BAM) 725 (July 1, 2014), p 8.

On April 26, 2014, the Department received the Respondent's application for FAP benefits and he reported that no one in his household was receiving any income. The Respondent started new employment on May 15, 2014, and this employment continued through October 4, 2014. The Respondent did not report his new employment to the Department. On June 16, 2014, the Department became aware of the Respondent's employment and sent him a New Hire Client Notice (DHS-4635), which was not returned in a timely manner.

If the Respondent had reported his new employment to the Department within ten days of its start on May 15, 2014, the Department would have applied this new source of income to his eligibility for FAP benefits no later than July 1, 2014. In July of 2014, the Respondent received FAP benefits totaling \$ [REDACTED] but would not have been eligible for any of these benefits if his income had been applied towards his FAP eligibility. Therefore, the Respondent received a \$ [REDACTED] overissuance of FAP benefits due to his failure to report his starting employment.

The Department became aware of the Respondent's employment on June 16, 2014, and it sent him a New Hire Client Notice (DHS-4635) requesting verification. The Respondent did not return verification of his employment or his earned income. Due to Department error, the Respondent's FAP benefits were not closed for failure to provide verification of his earned income, and he received FAP benefits totaling \$ [REDACTED] from August 1, 2014, through April 30, 2015. If the Department applied the income the Respondent received during his period towards his eligibility for FAP benefits, then he would not have been eligible for any of those benefits.

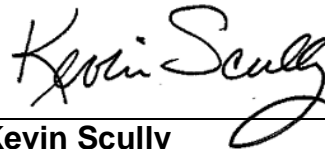
The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that the Department did establish a Client Error Food Assistance Program (FAP) benefit overissuance to Respondent totaling \$ [REDACTED]

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that the Department did establish a Department Error Food Assistance Program (FAP) benefit overissuance to Respondent totaling \$ [REDACTED]

DECISION AND ORDER

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

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



KS/las

Kevin Scully
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]

[REDACTED]

Respondent

[REDACTED]