



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: October 25, 2016
MAHS Docket No.: 16-005932

[REDACTED]

ADMINISTRATIVE LAW JUDGE: Vicki Armstrong

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 September 29, 2016, from Lansing, Michigan. Respondent personally appeared and testified.

The Department was represented by [REDACTED] Recoupment Specialist. [REDACTED] testified on behalf of the Department. The Department submitted 67 exhibits which were admitted into evidence. The record was closed at the conclusion of the hearing.

ISSUE

Did Respondent receive an over-issuance (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. On April 12, 2012, Petitioner applied for FAP indicating he had more than one felony drug conviction. [Dept. Exh. 8-28].

2. The Department alleged Respondent received a FAP OI during the fraud period October 1, 2012 through May 31, 2015, due to Department's error.
3. The Department alleges that Respondent received a [REDACTED] OI that is still due and owing to the Department.
4. Respondent was convicted of felony drug convictions in the [REDACTED] on [REDACTED]; [REDACTED]; [REDACTED]; and [REDACTED]. [Dept. Exh. 6].
5. On April 28, 2016, Petitioner submitted a Hearing Request contesting the Debt Collection.
6. On May 9, 2016, the Department issued a Notice of Overissuance informing Petitioner he owed [REDACTED] based on an agency error for FAP benefits received October 1, 2012 through May 31, 2015. [Dept. Exh. 63].
7. During the hearing in the above captioned matter, Recoupment Specialist [REDACTED] testified that based on payments received from Petitioner, the balance owing was [REDACTED] [Testimony].

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 - 3015.

Department Policy indicates that people convicted of certain crimes and probation or parole violators are not eligible for assistance. BEM 203, p 1 (10/1/2015). An individual convicted of a felony for the use, possession, or distribution of controlled substances two or more times in separate periods will be permanently disqualified if both offenses occurred after August 22, 1996. BEM 203, p 2.

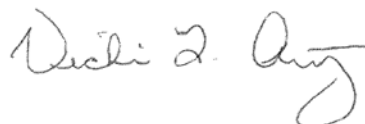
On April 12, 2012, Petitioner applied for FAP, indicating he had more than one drug related felony conviction. The Department admitted they erred in processing Petitioner's application when they approved Petitioner's FAP application. Petitioner credibly testified at hearing that he had made payments toward the administrative recoupment.

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that the Department did establish a 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.



Vicki Armstrong
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

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]