



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 4, 2016
MAHS Docket No.: 16-011925
Agency No.: [REDACTED]
Petitioner:
Respondent: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Jacquelyn A. McClinton

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 Detroit, Michigan. The Department was represented by [REDACTED], recoupment specialist and [REDACTED], Hearing Facilitator. The Respondent was represented by Respondent.

ISSUE

Did Respondent receive an over-issuance (OI) of 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 a FAP OI during the period [REDACTED], due to Department's error.
3. The Department alleges that Respondent received [REDACTED] OI that is still due and owing to the Department.

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.

At the hearing, the Department alleged that Respondent had been overissued FAP benefits as a result of a criminal justice disqualification. People convicted of certain crimes and probation or parole violators are not eligible for assistance. BEM 203 (July 2014), p. 1. Additionally, 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

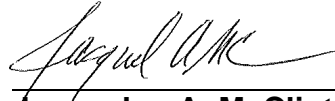
The Department presented a Claim Summary which revealed that Respondent received [REDACTED] each month from December 2014 through October 2015 for a total of [REDACTED] in FAP benefits. Respondent acknowledged that he had been convicted of two or more drug related felonies since August 22, 1996. The Department testified that Respondent reported the information honestly and timely and that it erroneously issued FAP benefits to Respondent between December 2014 and October 2015. Under Department policy, if a client receives more benefits than he/she was entitled, the Department must recoup. BAM 700 (May 2014), p. 1. Accordingly, because Respondent had been convicted of two drug related felonies since August 22, 1996 and because Petitioner received FAP benefits for which he was not entitled, the Department has established an overissuance and is therefore entitled to recoupment in the amount of [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.

JM/hw



Jacquelyn A. McClinton

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]