



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: November 14, 2016
MAHS Docket No.: 16-002905
Agency No.: [REDACTED]
Petitioner: OIG
Respondent: [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 October 13, 2016, from Lansing, Michigan. Participants on behalf of the Department included Recoupment Specialist [REDACTED]. Respondent was represented by his authorized hearing representative [REDACTED].

ISSUE

Did Respondent receive a \$ [REDACTED] Client Error over-issuance of Food Assistance Program benefits from July 1, 2014 to February 28, 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. On February 7, 2014, Respondent submitted an application for Food Assistance Program (FAP) benefits. Respondent did not have any income and was approved for benefits.
2. On May 23, 2014, Respondent began receiving earned income. The earned income was not reported to the Department.
3. On January 14, 2015, the Department discovered the unreported earned income through a wage match.

4. On December 18, 2015, the Department received verification of Respondent's employment and income from the employer.
5. On December 21, 2015, Respondent was sent a Notice of Over-Issuance (DHS-4358).
6. On February 29, 2016, Respondent submitted a hearing request.
7. On March 14, 2016, the Department requested this Debt Establishment hearing on behalf of Respondent.
8. Due to Client Error of Respondent not reporting his earned income, he received a \$ [REDACTED] over-issuance of Food Assistance Program benefits during the over-issuance period.

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 February 7, 2014 Respondent signed and submitted to the Department prior to the alleged over-issuance period. On the application Respondent indicated he had no income. This application is sufficient to establish that Respondent was provided the recoupment responsibilities of receiving assistance.

In the hearing request Respondent stated that he thought his employer would report his return to work and the Food Assistance Program (FAP) benefits would be stopped. Respondent also stated that he did not use any more of the Food Assistance Program (FAP) benefits once he returned to work.

Over-issuance Period

Client/CDC Provider Error

BAM 715 Client/CDC Provider Error Over-Issuances, states that the over-issuance period begins the first month (or pay period for CDC) benefit issuance exceeds the amount allowed by policy **or** 72 months before the date it was referred to the RS, whichever is later.

To determine the first month of the over-issuance period (for over-issuances 11/97 or later) Bridges allows time for:

The client reporting period, per BAM 105.

The full standard of promptness (SOP) for change processing, per BAM 220.

The full negative action suspense period: see BAM 220.

The over-issuance period ends the month (or pay period for CDC) before the benefit is corrected.

The error which caused this over-issuance occurred on May 23, 2014 when Respondent received his first pay check after returning to work. Applying the over-issuance period definition, the over-issuance period began July 1, 2014.

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. The over-issuance budgets submitted by the Department were reviewed and found to be correct. The over-issuance budgets show that Respondent was not eligible for any Food Assistance Program (FAP) benefits during the over-issuance period. Respondent received a \$ [REDACTED] over-issuance of Food Assistance Program (FAP) benefits.

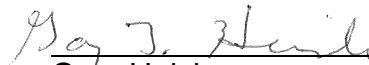
It is noted that the Department's policies on recoupment of over-issuances includes accounting for any benefits issued but not used. Dollar values loaded onto an electronic benefit transfer (EBT) card are expunged one year after being issued.

DECISION AND ORDER

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 did establish that Respondent received a \$ [REDACTED] Client Error over-issuance of Food Assistance Program benefits which the Department is authorized to recoup in accordance with Department policies in BAM 705, BAM 710, BAM 720, and BAM 725.

It is **ORDERED** that the actions of the Department of Health and Human Services, in this matter, are **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]

Authorized Hearing Rep.

[REDACTED]