



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 9, 2016
MAHS Docket No.: 16-014772
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

HEARING DECISION

Following Petitioner'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; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on November 3, 2016, from Lansing, Michigan. The Petitioner was represented by himself. [REDACTED] [REDACTED] also testified for the Petitioner. The Department of Health and Human Services (Department) was represented by [REDACTED] [REDACTED] recoupment specialist. Department Exhibit 1, pp.1-60 was received and admitted.

ISSUE

Did the Department properly determine that Petitioner received an overissuance (OI) of Food Assistance Program (FAP) benefits due to agency error that they are entitled to recoup?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Petitioner was a recipient of FAP benefits.
2. Petitioner reported and provided documentation regarding his receipt of unemployment compensation on May 26, 2016.
3. The Department failed to budget Petitioner's unemployment income.

4. On September 29, 2016, the Department issued a Notice of Overissuance alleging that Petitioner received an overissuance of FAP benefits in the amount of \$ [REDACTED] during the time period from July 1, 2016, through September 30, 2016.

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.

All Programs

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.
- Policy was misapplied.
- Action by local or central office staff was delayed.
- Computer errors occurred.
- Information was not shared between department divisions such as services staff.
- Data exchange reports were not acted upon timely (Wage Match, New Hires, BENDEX, etc.).

If unable to identify the type of overissuance, record it as an agency error. BAM 705(January 2016)

OVERISSUANCE PROCESSING

FIP, SDA, CDC and FAP

Agency errors (other than CDC **system** errors) are not pursued if the amount is under \$250 per program. BAM 705 (January 2016)

In this case, Petitioner disclosed to the Department that he was receiving unemployment compensation and provided documentation showing that as well. The Department failed to budget Petitioner's unemployment income. As a result Petitioner received an overissuance of benefits in the FAP program between July 1, 2016, and September 30, 2016, in the amount of \$ [REDACTED]. The overissuance resulted from agency error because Petitioner reported the income. However, since the overissuance amount was over \$ [REDACTED] the Department is still entitled to recoup. BAM 705 Petitioner questioned at hearing why he should have to repay the money if it was the Department's error and not his. It was explained that agency error over \$ [REDACTED] is subject to recoupment.

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 acted in accordance with Department policy when it determined that Petitioner received an overissuance of FAP benefits in the amount of \$ [REDACTED] between July 1, 2016, and September 30, 2016.

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

AM/mc



Aaron McClintic

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]

Petitioner

[REDACTED]