



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
Christopher Seppanen
Executive Director

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed:
MAHS Docket No.: 16-004534

[REDACTED]
[REDACTED]
[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 [REDACTED] 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 August 6, 2015, Petitioner applied for FAP benefits through the Michigan Combined Application Project. The application did not ask about previous felony drug convictions. [Dept. Exh. 13].

2. The Department alleges Respondent received a FAP OI of [REDACTED] during the period August 1, 2015 through February 29, 2016, due to Department's error that is still due and owing.
3. On February 19, 2016, the Department issued a Notice of Overissuance to Petitioner indicating, that due an agency error, Petitioner received a FAP overissuance of [REDACTED]. [Dept. Exh. 6-7].
4. On March 28, 2016, Petitioner submitted a Hearing Request contesting the Debt Collection. [Dept. Exh. 5].

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.

During a Department investigation of FAP recipients with two or more felony drug convictions, Petitioner was identified as a FAP recipient. The investigation revealed that Petitioner completed a FAP application on August 6, 2015 through the Michigan Combined Application Project. It was discovered that this application did not address previous felony drug convictions.

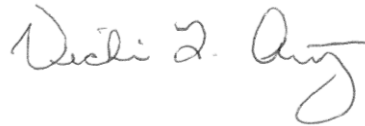
Petitioner credibly testified at hearing that he had previous drug convictions and was unaware that he was not eligible for FAP due to the convictions. Based on the application failing to address previous drug felonies, it was agency error. Regardless of fault, the Department must attempt to recoup.

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]

[REDACTED]

[REDACTED]
[REDACTED]
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