



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 26, 2016
MAHS Docket No.: 16-005347

[REDACTED]

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

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, an in person hearing was held on October 5, 2016, from Lansing, Michigan. The Department was represented by [REDACTED] Recoupment Specialist.

Respondent did not appear. This matter having been initiated by the Department and due notice having been provided to Respondent, the hearing was held in Respondent's absence in accordance with Department of Health and Human Services Bridges Administrative Manual (BAM) 725 (October 2015). Department Exhibit 1, pp.1-44 was received and admitted. Respondent submitted a handwritten letter that was received on October 10, 2016, stating that he arrived 35 minutes late for the hearing due to his cab driver being late picking him up. Respondent failed to establish good cause for granting a new hearing, therefore his request is denied.

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. Respondent was convicted of drug related felonies on [REDACTED], [REDACTED], and [REDACTED]. (Dept. Ex. 1, pp.13-27)
3. Respondent disclosed that he had previous drug felonies and the Department had an [REDACTED] printout showing Respondent's convictions.
4. The Department alleges Respondent received a [REDACTED] OI during the period February 1, 2015, through February 29, 2016, due to **Department** error.
5. 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.

DEBT COLLECTION HEARINGS

FIP, SDA, CDC, MA and FAP

MDHHS 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 MDHHS must request hearings when the program is inactive; see BAM 705 or 715, HEARING REQUESTED, Inactive Cases. Do not use the debt collection codes on Benefit Recovery System for these hearings.

FAP

7 CFR 272.8

7 USC 2022

Mich Admin Code, R 400.3011

**Agency Error
All Programs**

An agency error is caused by incorrect action (including delayed or no action) by MDHHS staff or department processes. BAM 700

**OVERISSUANCE PERIOD
All Programs
Begin Date**

FIP, SDA, CDC and FAP

The overissuance period begins the first month (or first pay period for CDC) when benefit issuance exceeds the amount allowed by policy, or 12 months before the date the overissuance was referred to the RS, whichever 12 month period is later. BAM 705

2nd Offense

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

Additionally, Petitioner has 3 drug related felonies that occurred after August 22, 1996 and therefore should have been disqualified from receiving FAP benefits after his 2nd conviction. BEM 203 The Department was aware of his convictions because a printout from the [REDACTED] was in his benefits file. Therefore the awarding of FAP benefits was agency error. The Department is only entitled to recoup benefits going back one year from the date of discovery. BAM 705 Going back one year from the date of discovery Respondent received [REDACTED]. This is the amount of the debt being pursued by the Department and that is consistent with Department policy and is proper and correct.

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 FAP benefits accordance with Department policy.



Aaron McClintic

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

