



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

Date Mailed: November 28, 2016
MAHS Docket No.: 16-014652

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, a telephone hearing was held on November 1, 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), pp. 1-17. Department Exhibit 1, pp.1-101 was received and admitted.

ISSUE

Did Respondent receive an over-issuance (OI) of Food Assistance Program (FAP) and State Disability Assistance (SDA) 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 and SDA benefits from the Department.
2. The Department issued a Notice of Overissuance on August 23, 2016, alleging that Respondent received overissuance of FAP and SDA benefits due to failing to report felony drug convictions. (Dept. Ex. 1, p.97)

3. The Department alleges Respondent received a/an [REDACTED] OI in the FAP program during the period August 1, 2012, through July 21, 2016, due to **Respondent's** error.
4. The Department alleges Respondent received a/an [REDACTED] OI in the SDA program during the period July 1, 2015, through August 31, 2016, due to Respondent's error.
5. The Department alleges that Respondent received [REDACTED] OI that is still due and owing to the Department.
6. Respondent was convicted of drug related felonies on September 2, 1997, February 17, 1998, and January 2, 2007. (Department Ex.1 pp.83-89)
7. Respondent requested hearing on August 26, 2016, stating "I have 1 felons(sic) 2-12-1998."

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.

The State Disability Assistance (SDA) program is established by the Social Welfare Act, MCL 400.1-.119b. The Department of Health and Human Services (formerly known as the Department of Human Services) administers the SDA program pursuant to 42 CFR 435, MCL 400.10 and Mich Admin Code, R 400.3151-.3180.

DEPARTMENT POLICY

Family Independence Program (FIP), Refugee Cash Assistance (RCA), State Disability Assistance (SDA), Child Development and Care (CDC) and Food Assistance Program (FAP)

People convicted of certain crimes and probation or parole violators are not eligible for assistance.

Policy for IPV disqualifications and overissuances is found in Bridges Administrative Manual (BAM) 700, Benefit Overissuances and BAM 720, Intentional Program Violation.

DRUG-RELATED FELONY

FIP and FAP

1st Offense

A person who has been convicted of a felony for the use, possession, or distribution of controlled substances is disqualified if:

- Terms of probation or parole are violated, **and**
- The qualifying conviction occurred after August 22, 1996.

If an individual is not in violation of the terms of probation or parole:

- FIP benefits must be paid in the form of restricted payments.
- Receipt of FAP benefits requires an authorized representative.

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 (October 2015)

Additionally, Respondent was convicted of drug related felonies on September 2, 1997, February 17, 1998, and January 2, 2007. (Department Ex.1 pp.83-89). Respondent failed to disclose that he had two or more felony drug convictions in violation of BEM 203. Respondent was ineligible for FAP and SDA due to his previous felony drug convictions.

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that the Department **did** establish a FAP and SDA benefit OI to Respondent totaling [REDACTED].

DECISION AND ORDER

Accordingly, the Department is **AFFIRMED**.

The Department is ORDERED to initiate collection procedures for a/an [REDACTED] OI in 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

[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] [REDACTED]

[REDACTED]

[REDACTED]
[REDACTED] [REDACTED]
[REDACTED] [REDACTED]