



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: March 16, 2017  
MAHS Docket No.: 17-001679  
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 March 9, 2017, from Lansing, Michigan. Participants on behalf of the Department included Recoupment Specialist [REDACTED] Respondent did not appear.

### **ISSUE**

Did Respondent receive a \$ [REDACTED] Agency Error over-issuance of Food Assistance Program benefits from December 1, 2015 to November 30, 2016?

Did Respondent receive a \$ [REDACTED] Client Error over-issuance of Food Assistance Program benefits from December 1, 2016 to January 31, 2017?

### **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 October 4, 2001, Respondent was convicted of drug related felony.
2. On June 19, 2003, Respondent was convicted of another drug related felony.

3. On June 30, 2012, the Department closed Respondent's Food Assistance Program (FAP) due to his disqualification in accordance with Bridges Eligibility Manual (BEM) 203 Criminal Justice Disqualification.
4. On May 5, 2015, Respondent submitted an Assistance Application (DHS-1171) for Food Assistance Program (FAP) benefits. On the application Respondent marked that he had not been convicted of any drug related felonies after August 22, 1996. Respondent signed the affidavit in the application certifying that the information in it was true and complete to the best of his knowledge. Respondent began receiving Food Assistance Program (FAP) benefits.
5. On November 10, 2016, Respondent's Food Assistance Program (FAP) was closed due to his disqualification in accordance with Bridges Eligibility Manual (BEM) 203 Criminal Justice Disqualification.
6. On November 17, 2016, Respondent submitted a timely hearing request for the Food Assistance Program (FAP) closure and requested to continue receiving Food Assistance Program (FAP) benefits until after the hearing.
7. On December 21, 2016, an Administrative Law Hearing was conducted on Respondent's November 17, 2016 hearing request.
8. On December 28, 2016, Administrative Law Judge D. Johnson issued a Decision and Order upholding the Department's closure of Respondent Food Assistance Program (FAP).
9. Respondent was a recipient of Food Assistance Program benefits from the Department from May 5, 2015 to January 31, 2017.
10. In accordance with Bridges Administration Manual (BAM) 705 Agency Error Over-Issuances, December 1, 2015 to November 30, 2016 has been properly determined as the over-issuance period caused by this Agency Error.
11. Due to the Agency Error of the Department issuing Respondent Food Assistance Program (FAP) benefits he was not eligible for, he received a \$ [REDACTED] Agency Error over-issuance of Food Assistance Program benefits between December 1, 2015 and November 30, 2016.
12. In accordance with Bridges Administration Manual (BAM) 715 Client/CDC Provider Error Over-Issuances, December 1, 2016 to January 31, 2017 has been properly determined as the over-issuance period caused by this Client Error.

13. Due to the Client Error of Respondent receiving Food Assistance Program (FAP) benefits pending a hearing and the hearing decision upholding the delayed Department action, Respondent received a \$ [REDACTED] Client Error over-issuance of Food Assistance Program benefits between December 1, 2016 and January 31, 2017.
14. On January 12, 2017, Respondent was sent a Notice of Over-Issuance (DHS-4358).
15. On January 30, 2017, Respondent submitted a hearing request.
16. On February 9, 2017, the Department requested this Debt Establishment hearing on behalf of Respondent.

### **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 May 5, 2015 which Respondent signed and submitted to the Department prior to the alleged over-issuance period. This application is sufficient to establish that Respondent was provided the recoupment responsibilities of receiving assistance.

**Over-issuance Period  
Agency Error**

BAM 705 Agency Error Over-Issuances, states that the over-issuance 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 over-issuance was referred to the RS, whichever 12 month period is later.

To determine the first month of the over-issuance period for changes reported timely and not acted on, Bridges allows time for:

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.

November 10, 2016, is the date the Department became aware of the Agency Error which caused this over-issuance. Applying the requirements cited above, the latest 12 month period would begin December 1, 2015 and end November 30, 2016.

**Client/CDC Provider Error**

BAM 715 Client/CDC Provider Error Over-Issuances, states:

A client error exists when the client's timely request for a hearing results in the suspension of a Michigan Department of Health and Human Services (MDHHS) action, and any of:

The hearing decision upholds the MDHHS action.

The client withdraws the hearing request.

The client fails to appear for the hearing which is not rescheduled.

The Michigan Administrative Hearings System (MAHS) sends written notice to proceed with case actions.

The error which caused this over-issuance occurred on November 17, 2016 when Respondent submitted a timely hearing request for the Food Assistance Program (FAP) closure and requested to continue receiving Food Assistance Program (FAP) benefits until after the hearing. Respondent was issued Food Assistance Program (FAP) benefits for December 2016 and January 2017.

**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 Agency Error over-issuance period of December 1, 2015 to November 30, 2016. Respondent was not eligible for any Food Assistance Program (FAP) benefits due to having two drug related felony convictions. Respondent received a \$ [REDACTED] Agency Error over-issuance of Food Assistance Program (FAP) benefits.

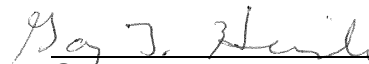
The Department presented a benefit summary showing that the State of Michigan issued a total of \$ [REDACTED] in Food Assistance Program (FAP) benefits to Respondent during the Client Error over-issuance period of December 1, 2016 to January 31, 2017. Respondent was not eligible for any Food Assistance Program (FAP) benefits due to having two drug related felony convictions. Respondent received a \$ [REDACTED] Client Error over-issuance of Food Assistance Program (FAP) benefits.

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] Agency Error over-issuance of Food Assistance Program benefits from December 1, 2015 to November 30, 2016 and a \$ [REDACTED] Client Error over-issuance of Food Assistance Program benefits from December 1, 2016 to January 31, 2017.

**DECISION AND ORDER**

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

GH/nr

  
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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]