



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: May 2, 2017
MAHS Docket No.: 17-003028
Agency No.: [REDACTED]
Petitioner: OIG
Respondent: [REDACTED] [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 April 13, 2017, from Lansing, Michigan. Participants on behalf of the Department included Recoupment Specialist [REDACTED] [REDACTED] Respondent appeared and testified.

ISSUE

Did Respondent receive a \$ [REDACTED] Agency Error over-issuance of Food Assistance Program benefits from May 1, 2012 to June 30, 2012?

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 June 6, 2011, Respondent was convicted of a drug related felony.
2. On August 29, 2011, Respondent was convicted of a second drug related felony.
3. On December 16, 2011, Respondent submitted a Redetermination (DHS-1010) and reported that he had drug related felony convictions.

4. On May 29, 2014, an Office of Inspector General investigation determined that Respondent received an Agency Error over-issuance of Food Assistance Program benefits.
5. Respondent was a recipient of Food Assistance Program benefits from the Department from May 1, 2012 to June 30, 2012.
6. May 1, 2012 to June 30, 2012 has been properly determined as the over-issuance period caused by this Agency Error.
7. Due to the Agency Error of the Department issuing Food Assistance Program (FAP) benefits to Respondent when he was not eligible, he received a \$ [REDACTED] over-issuance of Food Assistance Program benefits during the over-issuance period.
8. On February 13, 2017, Respondent was sent a Notice of Over-Issuance (DHS-4358).
9. On February 27, 2017, Respondent submitted a hearing request.
10. On March 7, 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 a Redetermination (DHS-1010) dated December 16, 2011 that Respondent signed and submitted to the Department prior to the alleged over-issuance period. On the application Respondent reported that he had felony drug convictions. This application is sufficient to establish that the Department knew Respondent was not eligible for Food Assistance Program (FAP) benefits and that Respondent was provided the recoupment responsibilities of receiving assistance.

During this hearing Respondent testified that he was in a group home during this time period and the home was receiving the Food Assistance Program (FAP) benefits. Respondent understood that even though the benefits were not going directly to him, they were being issued and used for his benefit.

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.

The Department's error of not closing Respondent's Food Assistance Program (FAP) once he reported having drug related felonies makes any Food Assistance Program (FAP) over-issuance an Agency Error over-issuance.

Over-issuance Amount

BAM 705 Agency Error Over-Issuances states that 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 over-issuance period. In accordance with Bridges Eligibility Manual (BEM) 203 Criminal Justice Disqualifications, Respondent was not eligible for Food Assistance Program (FAP) benefits after his second felony drug conviction on August 29, 2011. Respondent received a \$ [REDACTED] over-issuance of Food Assistance Program (FAP) benefits.

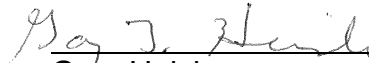
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did

establish that Respondent received a \$ [REDACTED] Agency Error over-issuance of Food Assistance Program which they may recoup in accordance with Department policy.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.

GH/nr



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]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Respondent

[REDACTED]