



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: June 13, 2017  
MAHS Docket No.: 17-003373  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE:** Gary Heisler

### **HEARING DECISION**

Following Petitioner's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 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; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on June 8, 2017, from Lansing, Michigan. Petitioner was represented by himself and his mother, [REDACTED]. The Department was represented by Recoupment Specialist [REDACTED].

### **ISSUE**

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

### **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 1, 2014, the Department began paying Petitioner's Medicare Premium.
2. On October 7, 2015, Petitioner submitted a Redetermination (DHS-1010) for his Food Assistance Program (FAP). In section 12 – Expenses You Are Responsible To Pay, Petitioner made note that he pays rent but did not indicate he paid any utilities. (Department Exhibit A page 45)
3. On October 12, 2015, the Department recertified Petitioner's Food Assistance Program (FAP) eligibility including a medical expense for his

Medicare Premiums and a shelter expense for the full heat and utility standard.

4. On January 25, 2017, an Agency Error over-issuance referral was made following a Quality Control Audit of Petitioner's Food Assistance Program (FAP) case which discovered the Department's errors in his eligibility determination.
5. January 1, 2016 to December 31, 2016 has been properly determined as the over-issuance period caused by this Agency Error.
6. Due to Agency Error of not updating Petitioner's Food Assistance Program (FAP) financial eligibility budget, Respondent received a \$ [REDACTED] over-issuance of Food Assistance Program benefits during the over-issuance period.
7. On February 17, 2017, Petitioner was sent a Notice of Over-Issuance (DHS-4358).
8. On February 28, 2017, Petitioner submitted a hearing request.

#### **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.

Petitioner's hearing request states "This is department error reported all information through DHS regular redetermination interviews and mid certification interviews stating that all utilities are included in my rent." During this hearing Petitioner's mother asserted that Petitioner does pay utilities so that expense should have been in his eligibility determination. Based on Petitioner's signed, October 7, 2015 Redetermination (DHS-

1010) and his signed hearing request, I find that Petitioner reported that he did not have any utility expense.

**Over-issuance Period**

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.

Applying the over-issuance period definition for an Agency Error over-issuance to the facts in this case, the over-issuance period properly began January 1, 2016.

**Over-issuance Amount**

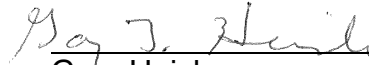
BAM 705 Agency Error Over-Issuances states the over-issuance amount is the benefit amount the group actually received minus the amount the group was eligible to receive. The Department presented a benefit summary showing that the State of Michigan issued a total of \$ [REDACTED] in Food Assistance Program (FAP) benefits to Petitioner during the over-issuance period. The over-issuance budgets submitted by the Department were reviewed and found to be correct. The over-issuance budgets show that Petitioner was only eligible for \$ [REDACTED] in Food Assistance Program (FAP) benefits during the over-issuance period. Petitioner 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 Petitioner received a \$ [REDACTED] Agency Error over-issuance of Food Assistance Program benefits which the Department is entitled to recoup.

**DECISION AND ORDER**

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

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]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Petitioner

[REDACTED]