



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 5, 2017
MAHS Docket No.: 17-005044
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Gary Heisler

HEARING DECISION

Upon a hearing request by 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 May 17, 2017, from Lansing, Michigan. Participants on behalf of the Department included Recoupment Specialist [REDACTED] Petitioner was present for the hearing.

ISSUE

Did Petitioner receive a \$ [REDACTED] Agency Error over-issuance of Food Assistance Program benefits between January 1, 2016 and October 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. Beginning in 2014, Petitioner was an ongoing recipient of Food Assistance Program benefits who had seasonal income. The initial over-issuance referral alleged Client Error over-issuances for: July 2014 through November 2014; June 2015 through September 2015; January 2016 through April 2016; and June 2016 through October 2016. Recoupment Specialist [REDACTED] determined that the over-issuances were Agency Error and in accordance with Bridges Administration Manual (BAM) 705 Agency Error Over-Issuances only pursued the last two over-issuance periods.(Department Exhibit a page 54)

2. On November 6, 2015, Petitioner began receiving Unemployment Compensation benefits. The Department failed to include this income in Petitioner's Food Assistance Program (FAP) financial eligibility budget.
3. On April 22, 2016, Petitioner began receiving earned income due to his return to work. The Department failed to include this income in Petitioner's Food Assistance Program (FAP) financial eligibility budget.
4. In accordance with Bridges Administration Manual (BAM) 705 Agency Error Over-Issuances, January 1, 2016 to October 31, 2016, has properly been determined as the over-issuance period caused by this Agency Error.
5. Due to the Agency Error of not including Petitioner's reported, unearned and earned income, Petitioner received a \$ [REDACTED] over-issuance of Food Assistance Program benefits during the over-issuance period.
6. On March 28, 2017, Petitioner was sent a Notice of Over-Issuance (DHS-4358).
7. On April 7, 2017, Petitioner submitted a hearing request.
8. On May 17, 2017, Recoupment Specialist [REDACTED] submitted corrected over-issuance budgets which are admitted and marked as Department Exhibit B pages 1-19.

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) 700 Benefit Over-Issuances states that when a client group receives more benefits than it is entitled to receive, MDHHS must attempt to recoup the over-issuance. Bridges Administration Manual (BAM) 705 Agency Error Over-Issuances is the source of authority for this Departmental action. 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.

During this hearing Petitioner testified credibly that he reported his seasonal employment and each time he was laid off and returned to work.

Over-issuance Period

Agency Error

BAM 705 Agency Error Over-Issuances, states that the over-issuance period begins the first month (or pay period for CDC) 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.

The over-issuance period ends the month (or pay period for CDC) before the benefit is corrected.

The errors which caused this over-issuance occurred in December 2015 and May 2016. The Over-Issuance Referral was submitted in January 2017. The 12 month limitation for agency error over-issuance determined the beginning of this over-issuance period as January 1, 2016.

Over-issuance Amount

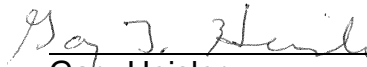
BAM 705 Agency Error Over-Issuances states the over-issuance amount is the benefit amount the group actually received minus the amount the group was eligible to receive. The Department presented a benefit summary showing that the State of Michigan issued a total of \$ [REDACTED] of Food Assistance Program (FAP) benefits to Petitioner during the over-issuance period. The sources of income for Petitioner's benefit group were reviewed and verified. The over-issuance budgets submitted by the Department were checked for accuracy and found to be correct. In accordance with the over-issuance budgets submitted by the Department, Petitioner was actually eligible for \$ [REDACTED] of Food Assistance Program (FAP) benefits during the over-issuance period. Petitioner received a \$ [REDACTED] over-issuance of Food Assistance Program (FAP) benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department has established that Petitioner received a \$ [REDACTED] Agency Error over-issuance of Food Assistance Program benefits.

Accordingly, the Department is UPHELD.

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]

Petitioner

[REDACTED]