



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 26, 2017
MAHS Docket No.: 17-006651
Agency No.: [REDACTED]
Petitioner: OIG
Respondent: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Kevin Scully

HEARING DECISION

Following Respondent'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 After due notice, telephone hearing was held on June 22, 2017, from Lansing, Michigan. Participants on behalf of the Department of Health and Human Services (Department) included [REDACTED] Recoupment Specialist. Petitioner represented himself.

ISSUE

Did the Department properly determine that the Respondent received an overissuance of Food Assistance Program (FAP) 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. On November 27, 2012, Petitioner was an ongoing Food Assistance Program (FAP) recipient receiving a \$ [REDACTED] monthly allotment of benefits based on a monthly income of \$0. Exhibit A, pp 18-25.
2. On December 26, 2012, Petitioner reported to the Department that he had started new employment. Exhibit A, p 16.
3. On August 12, 2013, the Department discovered that Petitioner started employment on December 4, 2012, and received earned income from January 7, 2013, through March 25, 2013. Exhibit A, pp 12-13.
4. The Petitioner receives monthly earned income from employment in the gross monthly amount of \$ [REDACTED] in February of 2013. Exhibit A, p 13.

5. The Petitioner receives monthly earned income from employment in the gross monthly amount of \$ [REDACTED] in March of 2013. Exhibit A, p 13.
6. Petitioner received Food Assistance Program (FAP) benefits totaling \$ [REDACTED] from February 1, 2013, through March 31, 2013. Exhibit A, p 6.
7. If the Department had applied his earned income towards his eligibility for ongoing Food Assistance Program (FAP) benefits then he would have been eligible for Food Assistance Program (FAP) benefits totaling \$ [REDACTED] from February 1, 2013, through March 31, 2013. Exhibit A, pp 7-11.
8. On April 12, 2017, the Department sent Petitioner a Notice of Overissuance (DHS-4358-A) informing him that the Department intended to recoup a \$ [REDACTED] overissuance of Food Assistance Program (FAP) benefits due to Department error. Exhibit A, p 1.
9. On May 9, 2017, the Department received Petitioner's request for a hearing protesting the Department's determination that he had received an overissuance of Food Assistance Program (FAP) benefits.

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), Department of Health and Human Services Reference Tables Manual (RFT), and Department of Health and Human Services Emergency Relief Manual (ERM).

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-.3011.

When a client group receives more benefits than it is entitled to receive, the Department must attempt to recoup the overissuance. An agency error is caused by incorrect action (including delayed or no action) by Department staff or Department processes. A client error occurs when the client received more benefits than they were entitled to because the client gave incorrect or incomplete information to the department. Client and agency errors are not pursued if the estimated amount is less than \$ [REDACTED] per program. Department of Health and Human Services Bridges Administrative Manual (BAM) 700 (October 1, 2016), pp 1-16.

Overissuance balances on inactive cases must be repaid by lump-sum, monthly cash payments, or administrative recoupment unless collection is suspended. Department of Health and Human Services Bridges Administrative Manual (BAM) 725 (January 1, 2017), pp 5-14.

All earned and unearned income available is countable unless excluded by policy. Earned income means income received from another person or organization or from self-employment for duties that were performed for compensation or profit. Unearned income means all income that is not earned, including but not limited to funds received from the Family Independence Program (FIP), State Disability Assistance (SDA), Child Development and Care (CDC), Medicaid (MA), Social Security Benefits (RSDI/SSI), Veterans Administration (VA), Unemployment Compensation Benefits (UCB), Adult Medical Program (AMA), alimony, and child support payments. The amount counted may be more than the client actually receives because the gross amount is used prior to any deductions. Department of Human Services Bridges Eligibility Manual (BEM) 500 (January 1, 2016).

All income is converted to a standard monthly amount. If the client is paid weekly, the Department multiplies the average weekly amount by 4.3. If the client is paid every other week, the Department multiplies the average bi-weekly amount by 2.15. Department of Human Services Bridges Eligibility Manual (BEM) 505 (July 1, 2014), pp 7-8.

Clients must report changes in circumstance that potentially affect eligibility or benefit amount. Changes must be reported within 10 days of receiving the first payment reflecting the change. Department of Health and Human Services Bridges Administrative Manual (BAM) 105 (April 1, 2016), p 11. The Department will act on a change reported by means other than a tape match within 15 workdays after becoming aware of the change, except that the Department will act on a change other than a tape match within 10 days of becoming aware of the change. Department of Health and Human Services Bridges Administrative Manual (BAM) 220 (April 1, 2016), p 7. A pending negative action occurs when a negative action requires timely notice based on the eligibility rules in this item. Timely notice means that the action taken by the department is effective at least 12 calendar days following the date of the department's action. BAM 220, p 12.

On November 27, 2012, Petitioner was an ongoing FAP recipient receiving a \$ [REDACTED] monthly allotment of benefits based on a monthly income of \$0. On December 26, 2012, Petitioner reported to the Department that he had started employment on December 4, 2012. Petitioner received earned income from January 7, 2013, through March 25, 2013. Due to Department error, the Department failed to update Petitioner's eligibility for ongoing benefits based on his increase in earned income. If the Department had properly responded to Petitioner's reported earned income, the Department would have updated his eligibility for FAP benefits by the benefit period after January 5, 2013.

Petitioner received a gross monthly income of \$ [REDACTED] in February of 2013, which the Department determined by multiplying the average of his gross weekly paychecks in the weekly amounts of [REDACTED] and \$ [REDACTED] by the 4.3 monthly conversion multiplier as directed by BEM 505. Petitioner received a gross monthly income of \$ [REDACTED] in March of 2013, which the Department determined by multiplying the

average of his gross weekly paychecks in the weekly amounts of [REDACTED], [REDACTED], by the 4.3 monthly conversion factor as directed by BEM 505.

Respondent received FAP benefits totaling \$ [REDACTED] from February 1, 2013, through March 31, 2013. If the Department had applied his earned income towards his eligibility for ongoing FAP benefits then he would have been eligible for FAP benefits totaling \$ [REDACTED] from February 1, 2013, through March 31, 2013. Therefore, Petitioner received a \$ [REDACTED] overissuance of FAP benefits.

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that the Department did establish a Food Assistance Program (FAP) benefit overissuance to Respondent totaling \$ [REDACTED]

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED. The Department is ORDERED to initiate collection procedures for a \$ [REDACTED] overissuance in accordance with Department policy.

KS/nr



Kevin Scully
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]