



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 27, 2017
MAHS Docket No.: 17-006653
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 September 5, 2013, Petitioner was an ongoing Food Assistance Program (FAP) recipient when the Department notified him that his benefits would close effective October 1, 2013. Exhibit A, p 18.
2. On September 12, 2013, the Department received a timely request for a hearing from Petitioner protesting the closure of his Food Assistance Program (FAP) benefits and requesting that his benefits continue pending the hearing. Exhibit A, p 16.

3. On September 19, 2013, Petitioner signed a Hearing Request Withdrawal (DHS-18A). Exhibit A, p 13.
4. On September 24, 2013, the Michigan Administrative Hearing System (MAHS) sent Petitioner a Notice of Hearing with notice that a hearing had been scheduled for October 14, 2013. Exhibit A, p 12.
5. On September 30, 2013, the Michigan Administrative Hearing System (MAHS) dismissed Petitioner's request for a hearing based on Petitioner's withdrawal of his request. Exhibit A, p 11.
6. Petitioner received Food Assistance Program (FAP) benefits totaling \$ [REDACTED] in October of 2013. Exhibit A, p 6.
7. On April 12, 2017, the Department sent Petitioner a Notice of Overissuance (DHS-4358-A) informing him that the Department intended to recoup Food Assistance Program (FAP) benefits totaling \$ [REDACTED]. Exhibit A, pp 1-5.
8. 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.

If a hearing request is filed timely and program benefits are restored, recoup overissuances if the request is later withdrawn, MAHS denies the request, the client or authorized hearing representative fails to appear for the hearing and MAHS issues an order of dismissal, or the hearing decision upholds the Department's action. The Department will calculate the overissuance from the date the negative action would have taken effect until the date the negative action is subsequently implemented. If an administrative recoupment is processed to recover an overissuance due to a hearing, send a timely notice of case action. The client is entitled to a hearing solely on the

issue of the recoupment amount. Department of Health and Human Services Bridges Administrative Manual (BAM) 600 (April 1, 2017), p 27.

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.

On September 5, 2013, Petitioner was an ongoing FAP recipient when the Department notified him that his FAP benefits would close effective October 1, 2013. On September 12, 2013, the Department received a timely request for a hearing protesting the closure of FAP benefits and requesting that FAP benefits remain open pending a hearing. On September 19, 2013, Petitioner withdrew his request for a hearing.

Petitioner received FAP benefits totaling \$ [REDACTED] in October of 2013, based on his timely hearing request protesting the closure of FAP benefits. Petitioner would not have received any of those benefits if he had not requested a hearing and also requested that his FAP benefits remain open pending a hearing.

Petitioner does not dispute the amount of FAP benefits he received in October of 2013, and he is entitled to a hearing solely on the issue of the recoupment amount. Petitioner testified that he was pressured into withdrawing his request for a hearing by his caseworker, which may not have been in accordance with Department policy.

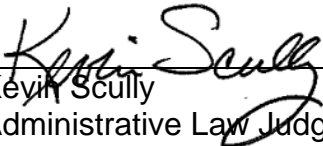
However, Michigan Administrative Hearing System (MAHS) only has the authority to grant Petitioner a hearing only on the issue of the recoupment amount. A complaint as to alleged misconduct or mistreatment by a state employee shall not be considered through the administrative hearing process, but shall be referred to the department personnel director. Mich Admin Code, R 792.11002.

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]