



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.: 17-006656
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 October 30, 2012, Petitioner notified the Department that his employment had ended and that he was not receiving any income. Exhibit A, pp 20-23.
2. Petitioner was an ongoing Food Assistance Program (FAP) recipient on May 1, 2013, receiving benefits based on a \$0 gross monthly income. Exhibit A, pp 14-15.
3. Petitioner began receiving unemployment compensation benefits on May 11, 2013. Exhibit A, pp 11-13.
4. The Petitioner receives monthly unemployment compensation benefits in the gross monthly amount of \$ [REDACTED] in July of 2013. Exhibit A, pp 11-13.
5. Petitioner received Food Assistance Program (FAP) benefits totaling \$ [REDACTED] in July of 2013. Exhibit A, p 6.

6. If the Department had considered Petitioner's unemployment compensation benefits then he would have been eligible for Food Assistance Program (FAP) benefits totaling \$ [REDACTED] in July of 2013. Exhibit A, pp 7-8.
7. On April 12, 2017, the Department sent Petitioner a Notice of Overissuance (DHS-4358-A) informing him of its intent 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.

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.

Petitioner was an ongoing FAP recipient on October 30, 2012, then he informed the Department that his employment had ended and that he was not receiving any income. As of May 1, 2013, Petitioner was receiving FAP benefits based on a \$ [REDACTED] gross monthly income. Petitioner began receiving unemployment compensation benefits on May 11, 2013. This information was discoverable to the Department, but due to Department error, this source of income was not applied to Petitioner's ongoing FAP benefits. If the Department had properly processed Petitioner's unemployment compensation benefits,

Petitioner's FAP benefits would have been redetermined by July 1, 2013. Petitioner received unemployment compensation benefits in the gross monthly amount of \$ [REDACTED] in July of 2013. Petitioner received FAP benefits totaling \$ [REDACTED] in July of 2013. If the Department had properly considered Petitioner's unemployment compensation benefits, Petitioner would have been eligible for FAP benefits totaling \$ [REDACTED] in July of 2013. Therefore, Respondent received \$ [REDACTED] of FAP benefits that he was not eligible for.

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]