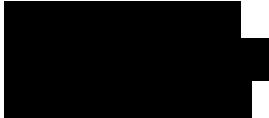




RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

SHELLY EDGERTON
DIRECTOR



Date Mailed: November 28, 2017
MAHS Docket No.: 17-013818
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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. After due notice, telephone hearing was held on November 20, 2017, from Lansing, Michigan. The Petitioner represented himself. The Department was represented by [REDACTED] [REDACTED] Recoupment Specialist.

ISSUE

Did the Department of Health and Human Services (Department) properly determine that Petitioner received an overissuance of Food Assistance Program (FAP) benefits that the Department is required to recoup?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Petitioner received Food Assistance Program (FAP) benefits totaling \$ [REDACTED] from April 1, 2015, through November 30, 2015. Exhibit A, p 11.
2. On October 20, 2014, the Department received Petitioner's completed Redetermination (DHS-1010) form. Exhibit A, pp 26-31.
3. Petitioner provided the Department with verification of his property taxes, an allowable expense deduction with respect to Food Assistance Program (FAP) benefits, showing that he had an obligation to pay property taxes on two separate parcels of real estate.
4. The fair market value of Petitioner's interest in each of his two separate parcels of real estate exceeds \$ [REDACTED] Exhibit A, pp 17-25.

5. On September 27, 2017, the Department sent Petitioner a Notice of Overissuance (DHS-4358-A) instructing him that it would recoup an \$ [REDACTED] overissuance of Food Assistance Program (FAP) benefits. Exhibit A, pp 6-10.
6. On October 5, 2017, the Department received Petitioner's request for a hearing. Exhibit A, p 5.

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.

Assets means cash, any other personal property and real property. Real property is land and objects affixed to the land such as buildings, trees and fences. Condominiums are real property. Personal property is any item subject to ownership that is not real property. Countable assets cannot exceed the applicable asset limit. An asset is countable if it meets the availability tests and is not excluded. Available means that someone in the asset group has the legal right to use or dispose of the asset. Department of Human Services Bridges Eligibility Manual (BEM) 400 (July 1, 2017), pp 1-7.

When a client group receives more benefits than it is entitled to receive, the Department must attempt to recoup the overissuance. Department of Human Services Bridges Administrative Manual (BAM) 700 (October 1, 2016), p 1.

On October 20, 2014, the Department received Petitioner's completed Redetermination (DHS-1010) form. Petitioner reported having an obligation to pay property taxes on two separate parcels of real estate, but only one of those is Respondent's residence.

Property taxes are an allowable expenses deduction with respect to eligibility for FAP benefits and the homestead of a FAP recipient is excludable from the countable asset limit. BEM 400, p 33. The asset limit for a benefit group to remain eligible for FAP benefits is \$5,000. BEM 400, p 5.

Petitioner was approved for FAP benefits and received FAP benefits totaling \$ [REDACTED] from April 1, 2015, through November 30, 2015.

However, Petitioner should not have been eligible for any of these benefits because his countable assets exceeded \$5,000 during that period. Due to Department error, benefits were issued by mistake because the fact that Petitioner has an ownership interest in two separate parcels of real estate was available to the Department. Although it was not Petitioner's error that caused the overissuance of benefits, he was not eligible to received FAP benefits and the Department is required to recoup those benefits that he was not eligible for.

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 acted in accordance with Department policy when it determined that Petitioner received an \$ [REDACTED] overissuance of Food Assistance Program (FAP) benefits that the Department is required to recoup.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.

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]

DHHS Department Rep.

[REDACTED]

Petitioner

[REDACTED]