



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
Christopher Seppanen
Executive Director

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: April 7, 2017
MAHS Docket No.: 17-001833
Agency No.: [REDACTED]
Petitioner: [REDACTED]
Respondent: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

DEBT ESTABLISHMENT HEARING DECISION

Upon the request for a hearing by the Michigan Department of Health and Human Services (MDHHS), this matter is before the undersigned administrative law judge pursuant to MCL 400.9, and in accordance with Titles 7, 42 and 45 of the Code of Federal Regulation (CFR), particularly 7 CFR 273.16 and 45 CFR 235.110; and with Mich Admin Code, R 400.3130 and 400.3178. After due notice, an in-person hearing was held on March 9, 2017, from Southfield, Michigan. Respondent appeared and objected to the proceedings by not taking an oath to tell the truth; Respondent's participation was limited to representing himself. [REDACTED]

[REDACTED] each a friend of Respondent's, were hearing observers. The Michigan Department of Health and Human Services (MDHHS) was represented by [REDACTED], recoupment specialist.

ISSUE

The issue is whether MDHHS established a debt against Respondent for an alleged over-issuance of 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. Respondent was an ongoing FAP benefit recipient.
2. On [REDACTED], MDHHS initiated termination of Respondent's FAP eligibility, effective [REDACTED]

3. On [REDACTED] [REDACTED] [REDACTED], Respondent requested a hearing to dispute the FAP termination.
4. On an unspecified date, in response to Respondent's timely hearing request, MDHHS ceased the pending FAP benefit termination.
5. Over the period from [REDACTED] through [REDACTED], MDHHS issued [REDACTED] in FAP benefits to Respondent.
6. On an unspecified date, MDHHS ceased Respondent's FAP eligibility, effective [REDACTED]
7. On [REDACTED], an administrative order dismissed Respondent's hearing request.
8. On [REDACTED] [REDACTED] [REDACTED], MDHHS mailed a Notice of Overissuance alleging Respondent received a FAP benefit overissuance of [REDACTED] in FAP benefits from [REDACTED] through [REDACTED].
9. On [REDACTED], Respondent requested a hearing to dispute the alleged overissuance of benefits.
10. On [REDACTED], MDHHS requested a hearing to establish a debt of [REDACTED] against Respondent.

CONCLUSIONS OF LAW

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. MDHHS (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. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

MDHHS requested a hearing for the purpose of establishing a debt against Respondent. MDHHS presented a Notice of Overissuance (Exhibit 1, pp. 1-2) dated [REDACTED]. The notice alleged Respondent received [REDACTED] in over-issued FAP benefits due to client error. The alleged overissuance period was from [REDACTED]

[MDHHS] may request a hearing to... establish an intentional program violation and disqualification... [or to] establish a collectable debt on closed cases. BAM 600 (October 2015), p. 4. MDHHS requests a debt collection hearing when the grantee of an inactive program requests a hearing after receiving the DHS-4358B, Agency and Client Error Information and Repayment Agreement. BAM 725 (October 2015), pp. 16-17. Active

recipients are afforded their hearing rights automatically, but MDHHS must request hearings when the program is inactive.... *Id.*, p. 17.

MDHHS must establish an overissuance of benefits in order to establish a debt against Respondent. MDHHS testimony indicated Respondent received an over-issuance of FAP benefits stemming from Respondent's "timely hearing request" which was later dismissed.

While waiting for the hearing decision, recipients must continue to receive the assistance authorized prior to the notice of negative action when the request was filed timely. Upon receipt of a timely hearing request, [MDHHS is to] reinstate program benefits to the former level for a hearing request filed because of a negative action. BAM 600 (October 2015), p. 24.

MDHHS presented various exhibits in support of the OI allegation. Respondent objected to the admission of MDHHS' documents. Respondent presented written objections to the admission of documents (Exhibit A, pp. 1-7) and read a summary of his objections.

Generally, Respondent contended the administrative hearing process was a sham and a criminal enterprise. Respondent contended that MDHHS and the Michigan Administrative Hearing Process committed multiple felonious acts against him and that he was entitled to over one billion dollars as compensation for those acts. Respondent alleged these acts violated the Accardi Doctrine.

The Accardi Doctrine was created by the Supreme Court (see *Accardi v. Shaughnessy*, 347 U.S. 260 (1954)). In short, the Accardi Doctrine requires administrative agencies to follow their own regulations; those that do not run the risk of having their actions invalidated.

Respondent provided a lengthy list of allegations against various governmental employees (see Exhibit 1, pp. 1-7; Exhibit B, pp. 1-73) he deemed to be supportive of his claims. Some of Respondent's complaints and/or allegations against MDHHS included their choice of title for some of their staff ("specialists"), refusal of MDHHS staff to identify themselves during a pre-hearing conference, and perjury by MDHHS staff concerning pre-hearing conference events.

Respondent's allegations did not violate any known MDHHS policies. Administrative hearing jurisdiction is generally limited to disputes of administrative policy. Respondent's arguments may be appropriate for higher state and federal courts, however, they are found to be beyond the jurisdiction of the present hearing.

Respondent also made multiple allegations against the undersigned and various other MAHS employees. The allegations against the undersigned included giving prejudicial treatment to MDHHS over Respondent in an administrative hearing in which the outcome was an adjournment (see Exhibit 1, pp. 18-20), a failure to conduct an impartial hearing, not being sworn-in as a witness, and non-payment of a performance

bond. None of Respondent's allegations are deemed to be persuasive, though Respondent has every opportunity to utilize the appeals process to persuade a higher court otherwise.

All of Respondent's objections to evidence were overruled. Accordingly, MDHHS' proposed exhibits were admitted.

MDHHS presented a Notice of Case Action (Exhibit 1, pp. 31-34) dated [REDACTED]. The notice stated Respondent's FAP eligibility would end [REDACTED] due to a failure to verify bank account information.

MDHHS presented a letter from Respondent dated [REDACTED] (Exhibit 1, pp. 25-26). The letter, in part, requested a hearing disputing the Notice of Case Action dated [REDACTED].

MDHHS presented an Order of Dismissal Pursuant to Abandonment (Exhibit 1, pp. 9-10) dated [REDACTED] [REDACTED] [REDACTED]. The administrative decision, in part, dismissed Respondent's hearing request dated [REDACTED] [REDACTED]. The administrative hearing decision described Respondent's hearing request as a dispute concerning FAP eligibility.

MDHHS presented a Benefit Summary Inquiry (Exhibit 1, p. 6). The document verified MDHHS' FAP benefit issuances to Respondent from [REDACTED] through [REDACTED]. Monthly issuances of [REDACTED] were listed for each benefit month.

If a hearing request is filed timely and program benefits are restored, [MDHHS is to] recoup overissuances if... the hearing decision upholds the department's action. *Id.*, p. 24. [MDHHS is to] calculate the overissuance from the date the negative action would have taken effect until the date the negative action is subsequently implemented. *Id.* If an administrative recoupment is processed to recover an overissuance due to a hearing, send a timely notice of case action. In this situation, the client is entitled to a hearing solely on the issue of the recoupment amount. *Id.*

It should be noted that MDHHS happened to terminate Respondent's FAP eligibility before Respondent's hearing request from [REDACTED] was dismissed. Nothing in MDHHS policy precludes MDHHS from affecting FAP eligibility before an administrative hearing, as long as the MDHHS action was independent from the dispute raised by a hearing request.

Presented evidence verified Respondent requested a hearing to dispute a termination of FAP eligibility. Presented evidence verified MDHHS continued Respondent's FAP eligibility, pending the hearing outcome, due to Respondent's timely hearing request. Presented evidence verified Respondent received [REDACTED] in FAP benefits that Respondent would not have received but for Respondent's timely hearing request. Presented evidence verified Respondent lost the hearing disputing the termination of

FAP eligibility. It is found that MDHHS established a basis for debt collection of [REDACTED] against Respondent.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS established a debt against Respondent for [REDACTED] in FAP benefits over-issued over the period from [REDACTED]. The MDHHS request for debt establishment is **APPROVED**.

CG/hw



Christian Gardocki

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]
[REDACTED]

Respondent

[REDACTED]
[REDACTED]
[REDACTED]