



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

SHELLY EDGERTON
DIRECTOR

Date Mailed: November 29, 2017
MAHS Docket No.: 17-013726
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Ellen McLemore

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; 42 CFR 438.400 to 438.424; 45 CFR 99.1 to 99.33; and 45 CFR 205.10; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on November 16, 2017, from Detroit, Michigan. Petitioner was present and represented himself. The Department of Health and Human Services (Department) was represented by Candice Benns, Hearing Facilitator, and Denise Beard, Overpayment Specialist.

ISSUE

Did Petitioner receive an overissuance of Food Assistance Program (FAP) benefits that the Department is entitled 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 was an ongoing FAP recipient.
2. On March 19, 2012, Petitioner submitted a redetermination in which he acknowledged he had been convicted of more than one drug-related felony after August 22, 1996.
3. Petitioner was a member of a household that consisted solely of himself.
4. During the period of November 1, 2015, through October 31, 2016, Petitioner was issued \$2,328 in FAP benefits.

5. On September 28, 2017, the Department sent Petitioner a Notice of Overissuance informing him that he had been overissued benefits in the amount of \$2,328 for the period of November 1, 2015, through October 31, 2016.
6. On October 10, 2017, Petitioner submitted a request for hearing disputing the Department's action.

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.

In this case, Petitioner was issued FAP benefits for the period of November 1, 2015, through October 31, 2016. Petitioner was the only member of his FAP group. Petitioner had previously submitted a redetermination on March 19, 2012, and indicated he had more than one drug-related felony. Petitioner disclosed on a multitude of occasions that he had more than one drug-related felony. Despite the disclosure, Petitioner was still issued FAP benefits. As a result, the Department issued a Notice of Overissuance to Petitioner on September 28, 2017, informing him that he was overissued FAP benefits in the amount of \$2,328, for the period of November 1, 2015, through October 31, 2016.

An individual convicted of a felony for the use, possession, or distribution of controlled substances two or more times in separate periods will be permanently disqualified if both offenses occurred after August 22, 1996. BEM 203 (October 2015), p. 2. When a client group receives more benefits than it is entitled to receive, the Department must attempt to recoup the overissuance. BAM 700 (October 2016), p. 1. An agency error is caused by incorrect action by the Department staff or department processes. BAM 700, p. 4. The amount of the overissuance is the benefit amount the group actually received minus the amount the group was eligible to receive. BAM 705 (January 2016), p. 6.

In support of its contention that Petitioner was overissued benefits, the Department presented a benefit summary showing Petitioner was issued \$2,328 in FAP benefits between November 1, 2015, and October 31, 2016 (Exhibit B). The Department also presented documentation to establish Petitioner had been convicted of two drug-related

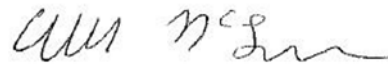
felonies. However, the documentation for the second drug-related felony had the incorrect spelling of Petitioner's name and incorrect birthdate.

Although the information on the documentation for the second drug-related felony was incorrect, Petitioner acknowledged he had more than one drug-related felony subsequent to August 22, 1996. Additionally, Petitioner did note that information in the March 19, 2012 redetermination. As Petitioner had more than one drug-related felony that occurred after August 22, 1996, but before the overissuance period of November 1, 2015, through October 31, 2016, Petitioner was not entitled to benefits during that time period. Petitioner was the only member of his FAP group. Accordingly, the Department established that Respondent was not entitled to benefits during the overissuance period, and as such, received an overissuance of FAP benefits in the amount of \$2,328 during the overissuance period.

DECISION AND ORDER

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 Petitioner received an overissuance of FAP benefits in the amount of \$2,328 for the period of November 1, 2015, through October 31, 2016.

Accordingly, the Department's decision is **AFFIRMED**.



EM/

Ellen McLemore

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

MDHHS-Wayne-49-Hearings

DHHS Department Rep.

MDHHS-Policy Recoupment

Petitioner



M Shumaker
E McLemore
MAHS