



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR



Date Mailed: January 11, 2018
MAHS Docket No.: 17-015471
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 January 4, 2018, from Detroit, Michigan. Petitioner was present and represented himself. The Department of Health and Human Services (Department) was represented by Cindy Hoover, Eligibility Specialist, and Michele Welch, 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. On [REDACTED], 2015, Petitioner submitted an application for FAP benefits.
2. Petitioner was a member of a group that consisted of himself and his child.
3. Petitioner had two drug-related felonies.
4. On October 12, 2017, the Department sent Petitioner a Notice of Overissuance informing him that he was overissued FAP benefits in the amount of \$1,322 for the period of June 1, 2015, through February 29, 2016.

5. On November 27, 2017, Petitioner submitted a request for hearing disputing the Department's actions.

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 submitted an application for FAP benefits on [REDACTED], 2015. In the application, Petitioner informed the Department that he had two drug-related felonies and that he was only applying for assistance for his child. 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. Despite Petitioner's admission that he had two drug-related felonies after August 22, 1996, the Department issued FAP benefits to Petitioner based on a group size of two. The Department testified that Petitioner was overissued benefits for the period of June 1, 2015, through February 29, 2016, due to the Department's failure to exclude Petitioner from the FAP group.

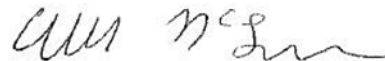
When a client group receives more benefits that it is entitled to receive, the Department must attempt to recoup the overissuance. BAM 700 (October 2016), p. 1. An agency error is caused by incorrect action by the Department staff or department processes. BAM 700, p. 4. The amount of the overissuance is the benefit amount the group actually received minus the amount the group was eligible to receive. BAM 705 (January 2016), p. 6. If improper budgeting of income caused the overissuance, the Department will use actual income for the past overissuance month for that income source when determining the correct benefit amount. BAM 705, p. 8.

The Department presented Petitioner's [REDACTED], 2015 application, in which he acknowledged he had two drug-related felonies. The Department also presented information from the Michigan Department of Corrections showing Petitioner was convicted of two drug-related felonies after August 22, 1996. As such, the Department properly determined Petitioner should have been disqualified from the FAP group.

The Department presented Petitioner's Benefit Summary, which showed he was issued \$1,886 in FAP benefits for the period of June 2015 through February 2016. The Department presented overissuance budgets for the period June 2015 through February 2016. The Department recalculated Petitioner's FAP benefits by reducing the group size to one. The budgets show that for the period of June 2015 through February 2016, Petitioner should have only received \$564 in FAP benefits. Therefore, the Department established it properly determined Petitioner was overissued FAP benefits in the amount of \$1,322.

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 \$1,322. 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-Otsego-Hearings

DHHS Department Rep.

MDHHS-Recoupment

Petitioner



BSC4
M Holden
D Sweeney
M Shumaker
E McLemore
MAHS