



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: February 26, 2018
MAHS Docket No.: 18-000458
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Amanda M. T. Marler

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 February 20, 2018, from Detroit, Michigan. The Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by [REDACTED], Eligibility Specialist, and [REDACTED], Overpayment Specialist.

ISSUE

Did the Department properly issue a Notice of Overissuance?

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 May 11, 2017, Petitioner participated in a telephone hearing before Administrative Law Judge (ALJ) Ferris regarding an Intentional Program Violation (IPV) and Overissuance (OI) of FAP benefits due to Petitioner's two felony drug convictions in Michigan Administrative Hearing System (MAHS) docket number 16-017484.
2. A decision was issued by the ALJ on November 7, 2017, holding that the Department had not established an IPV, but that due to the Petitioner's two felony drug convictions, she had received benefits to which she was not entitled, and the Department may begin recoupment or collections of the OI valued at \$ [REDACTED]

3. On November 20, 2017, the Department issued a Notice of Overissuance indicating that Petitioner had been found to have an OI totaling \$ [REDACTED] due to client error for failure to report her felony drug convictions as determined by the ALJ on November 7, 2017.
4. On January 17, 2018, Petitioner submitted a hearing request attempting to dispute the decision of the ALJ and Notice of Overissuance.

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 attempting to appeal the ALJ's decision, request a rehearing, or request reconsideration on the matter. The undersigned does not have the authority or jurisdiction to change the decision of another ALJ. In addition, since the issue of an IPV and OI were already decided by the ALJ in MAHS docket number 16-017484 and the previous hearing involved the same parties, *collateral estoppel* precludes the undersigned from addressing the issue again. *Collateral estoppel* means that a person cannot relitigate an issue that has already been litigated. Since the Petitioner already appeared before an ALJ and presented evidence on the issue of the IPV and OI, she cannot appear again before an ALJ and try to present the evidence a second time.

Since the Department's Notice of Overissuance was issued simply to begin the process of recouping or collecting the OI based upon the ALJ's decision, the Department acted properly in issuing it.

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 issued the Notice of Overissuance to Petitioner.

DECISION AND ORDER

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



AM/

Amanda M. T. Marler
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]

Petitioner

[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]