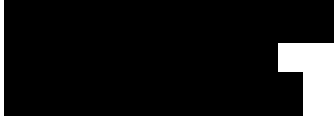




RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR



Date Mailed: March 28, 2018
MAHS Docket No.: 18-000574
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 February 28, 2018, from [REDACTED] Michigan. Petitioner represented himself. The Department was represented by [REDACTED] Overpayment Specialist.

ISSUE

Did the Department of Health and Human Services (Department) properly determine that Petitioner received an overissuance of Family Independence Program (FIP), Medical Assistance (MA), Food Assistance Program (FAP), and State Emergency Relief (SER) 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. On October 15, 2012, the Department received an application for assistance submitted by [REDACTED] [REDACTED] for cash assistance that did not list Petitioner on the application. Exhibit A, pp 3-23.
2. [REDACTED] [REDACTED] received Family Independence Program (FIP), Medical Assistance (MA), Food Assistance Program (FAP), and State Emergency Relief (SER) benefits without reported Petitioner's income as a member of her household. Exhibit A, pp 4-13.
3. As the father of a child in common with [REDACTED] [REDACTED] Petitioner was a mandatory member of the benefit group.

4. ██████ ██████ received an overissuance of Food Assistance Program (FAP) benefits totaling \$ ██████ Family Independence Program (FIP) totaling \$ ██████ Medical Assistance (MA) totaling \$ ██████ and State Emergency Relief (SER) totaling \$ ██████ Exhibit A, p 21.
5. On November 9, 2015, ██████ ██████ pled guilty to Theft of Government Funds for the fraudulent receipt of Family Independence Program (FIP), Food Assistance Program (FAP), and Medical Assistance (MA) benefits and was ordered to pay restitution. Exhibit A, pp 25-32.
6. On June 30, 2016, Michigan Administrative Hearing System (MAHS) issued a Hearing Decision finding that Petitioner was not responsible for a Food Assistance Program (FAP) overissuance. Exhibit A, pp 4-13.
7. On January 10, 2018, the Department received Petitioner's request for a hearing protesting the recoupment of benefits.

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 Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Department of Human Services) administers FIP pursuant to 45 CFR 233-260, MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3101-.3131.

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department (formerly known as the Department of Human Services) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

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.

The State Emergency Relief (SER) program is established by the Social Welfare Act, MCL 400.1-.119b. The SER program is administered by the Department (formerly known as the Department of Human Services) pursuant to MCL 400.10 and Mich Admin Code, R 400.7001-.7049.

██████ ██████ received FIP, MA, FAP, and SER benefits on an application she submitted to the Department without listing Petitioner on the application. ██████ ██████ was not eligible for the benefits she received, and she acknowledged her fraudulent receipt of those benefits when she pled guilty to Theft of Government Funds on November 9, 2015.

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, 2015), p 1.

The Department will collect recoupment for an overissuance from all adults who are a member of the case when the overissuance was created. Department of Health and Human Services Bridges Administrative Manual (BAM) 725 (October 1, 2017), p 1.

The Department will initiate recoupment as ordered by the court and apply court-ordered disqualification **as ordered by the court**. Department of Health and Human Services Bridges Administrative Manual (BAM) 720 (October 1, 2017), p 14.

In this case, the hearing record supports a finding that despite being an adult in a household receiving public benefits, that Petitioner did not contribute to the fraud that resulted in an overissuance. The overissuance was established by a court and not an administrative action. ██████ ██████ pled guilty in court to fraudulently receiving benefits and was ordered to pay restitution. Courts are not bound by the Department policy when ordering recoupment or disqualification. Department policy does require that recoupment be limited to the findings of the court establishing the overissuance.

This Administrative Law Judge finds that ██████ ██████ accepted responsibility for the overissuance of FIP, MA, FAP, and SER benefits and the court established that she is solely liable for restitution to repay that overissuance.

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 did not act in accordance with Department policy when it initiated recoupment of FIP, MA, FAP, and SER benefits from Petitioner.

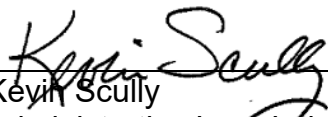
DECISION AND ORDER

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

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

Delete the overissuance and cease any recoupment action from Petitioner for the Family Independence Program (FIP), Medical Assistance (MA), Food Assistance Program (FAP), and State Emergency Relief (SER).

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]

DHHS Department Rep.

[REDACTED]

Petitioner

[REDACTED]