



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: March 5, 2018
MAHS Docket No.: 18-001150
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 March 1, 2018, from Detroit, Michigan. Petitioner was present and represented himself. The Department of Health and Human Services (Department) was represented by [REDACTED], Assistance Payments Worker.

ISSUE

Did the Department properly issue a Notice of Balance Due to Petitioner?

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 January 2, 2018, the Department sent Petitioner a Notice of Balance Due (Exhibit A).
2. On January 18, 2018, Petitioner submitted a request for hearing.

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, the Department issued a Notice of Balance Due to Petitioner on January 2, 2018 in the amount of [REDACTED] for an overissuance of Food Assistance Program (FAP) benefits. The DHHS-1440, Notice of Balance Due, is sent in the month after: (i) a program with an outstanding overissuance balance closes or (ii) the last active program closes and there is an outstanding overissuance balance in any program. BAM 725 (October 2017), p. 12.

The Department testified that Petitioner was never sent a Notice of Overissuance. The Department testified that a Front-End Eligibility (FEE) investigation was conducted regarding Petitioner's FAP benefit case in July 2016. However, the Department determined Petitioner's residency was not an issue and there was no finding that would result in a finding that Petitioner had been overissued FAP benefits. The Department stated it was unsure as to why Petitioner was sent the notice.

Petitioner testified that he never received a Notice of Overissuance. Petitioner stated that he did collect FAP benefits in 2016 and 2017 but he never collected an amount even close to [REDACTED]. Petitioner's testimony is corroborated by the FAP benefit summary presented by the Department (Exhibit D). Therefore, the Department failed to establish Petitioner was properly sent the Notice of Balance Due. It would seem the notice was sent to Petitioner in error.

DECISION AND ORDER

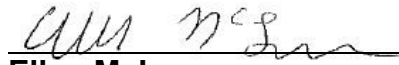
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it sent Petitioner a Notice of Balance Due.

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:

1. Petitioner does not owe a balance of [REDACTED] due to an overissuance of FAP benefits; and
2. Delete any balance due and cease any recoupment action.

EM/cg



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

Via Email:

[REDACTED]

Petitioner – Via First-Class Mail:

[REDACTED]