



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

SHELLY EDGERTON
DIRECTOR



Date Mailed: June 7, 2018
MAHS Docket No.: 18-004396
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, a telephone hearing was held on May 31, 2018, from Lansing, Michigan. Petitioner represented himself. The Department of Health and Human Services was represented by [REDACTED], Recoupment Specialist.

ISSUE

Did the Department of Health and Human Services (Department) properly establish that Petitioner received an overissuance of Food Assistance Program (FAP) benefits that must be recouped?

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], Petitioner pled guilty to Delivery/manufacture of a Controlled Substance Less Than 50 Grams, for a [REDACTED], offense. Exhibit A, pp 11-13.
2. On [REDACTED], Petitioner pled guilty to Delivery of a Controlled Substance Less Than 50 Grams. Exhibit A, p 14.
3. On [REDACTED], the Department received Petitioner's application for assistance where Petitioner disclosed that he had been convicted of more than one felony conviction involving controlled substances. Exhibit A, p 21.

4. On [REDACTED], the Department received Petitioner's application for assistance where Petitioner reporting that he had not been convicted of any felonies involving controlled substances. Exhibit A, p 43.
5. Petitioner received Food Assistance Program (FAP) benefits totaling \$ [REDACTED] from [REDACTED], through [REDACTED] Exhibit A, p 60.
6. On [REDACTED] the Department sent Petitioner a Notice of Overissuance (DHS-4358-A) instructing him that he had received a \$ [REDACTED] overissuance of Food Assistance Program (FAP) benefits. Exhibit A, pp 4-6.
7. On [REDACTED], the Department received Petitioner's request for a hearing protesting the recoupment of Food Assistance Program (FAP) benefits. Exhibit A, p 3.

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.

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. Department of Health and Human Services Bridges Eligibility Manual (BEM) 203 (May 1, 2018), p 2.

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 (January 1, 2018), p 1.

On [REDACTED], the Department received Petitioner's application for FAP benefits. Petitioner failed to report his history of felony convictions involving controlled substances on his application for assistance. The Department approved Petitioner's application for FAP benefits and he received FAP benefits totaling \$ [REDACTED] from [REDACTED] through [REDACTED].

Petitioner is not eligible for any FAP benefits because he has been convicted of two or more felonies involving controlled substance in separate periods where both offenses occurred after August 22, 1996.

Based on Respondent's history of felony convictions involving controlled substances, Petitioner should be permanently disqualified from FAP. Whether Petitioner intentionally failed to disclose his history of felony convictions on [REDACTED], is not relevant to this case because the Department was aware, or should have been aware of Petitioner's circumstances based on the information he reported on his [REDACTED], application for assistance.

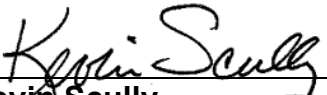
The hearing record supports a finding that Petitioner received FAP benefits totaling \$ [REDACTED] that he was not eligible for, and the Department does not dispute that the overissuance of FAP benefits was due to Department error. Therefore, the Department has established a \$ [REDACTED] overissuance of FAP benefits that must be recouped as directed by BAM 700.

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 that Petitioner received a \$ [REDACTED] overissuance of FAP benefits that must be recouped.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.

KS/hb



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) 763-0155; 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 Department Rep.

[REDACTED]

DHHS

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Petitioner

[REDACTED]