



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

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██████████, MI ██████████

Date Mailed: July 3, 2018
MAHS Docket No.: 18-004127
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Jacquelyn A. McClinton

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 June 28, 2018, from Detroit, Michigan. The Petitioner was represented by Petitioner. ██████████ served as the Bengali interpreter for the hearing. The Department of Health and Human Services (Department) was represented by Michelle Silas, Hearing Facilitator.

ISSUE

Did the Department properly determine that Petitioner was overissued FAP benefits in the amount of \$ ██████████ from May 1, 2016 through January 31, 2017 as a result of Agency error?

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 February 3, 2016, Petitioner submitted an application for FAP benefits which advised the Department that he was employed earning \$ ██████████ per hour and that he was paid weekly.
2. On February 17, 2016, Petitioner submitted a Redetermination which also advised the Department that he was employed earning \$ ██████████ per hour and that he was paid weekly.
3. On April 4, 2016, Petitioner submitted a Change Report which advised the Department that he was receiving unemployment benefits.

4. The Department failed to budget Petitioner's earned and unearned income.
5. Petitioner worked with approximately three other employers.
6. The Department was not aware of all of Petitioner's earned income.
7. On April 2018, the Department sent Petitioner a Notice of Overissuance which notified Petitioner that he had been overissued FAP benefits in the amount of \$ [REDACTED] from May 1, 2016 through January 31, 2017 as a result of Agency error.
8. On April 24, 2018, Petitioner filed 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.

The amount of the OI is the benefit amount the client actually received minus the amount the client was eligible to receive. BAM 715 (January 2016), p. 6. When a client group receives more benefits than it is entitled to receive, DHS must attempt to recoup the overissuance (OI). BAM 700 (January 2016), p. 1. Under Department policy gross countable earned income is reduced by a 20% earned income deduction. BEM 550 (October 2015), p. 1. However, the 20% earned income deduction is not allowed when determining overissuances due to failure to report earned income BAM 715, p. 8.

In this case, the Department testified that Petitioner worked for four employers during the overissuance period. Further, Petitioner received unemployment benefits during the overissuance period. The Department explained that Petitioner timely reported some of his income and his unemployment benefits. The Department further explained that even though Petitioner reported some of his income and unemployment benefits, it failed to budget any income for Petitioner. As such, the Department concluded that the overissuance was due to Agency error.

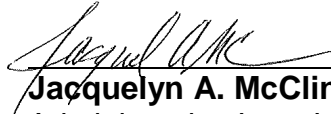
Petitioner agreed with the Department's calculation of the overissuance amount for each month except May and August 2016. However, after reviewing the budgets at the hearing, Petitioner testified that he agreed with the Department's overissuance

calculations. Given that Petitioner now agrees with the Department's calculations, it is found that the Department has established that Petitioner was overissued benefits in the amount of \$ [REDACTED] from May 1, 2016 through January 31, 2017.

DECISION AND ORDER

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

JAM/tlf



Jacquelyn A. McClinton
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

Via Email:

MDHHS-Wayne-55-Hearings
MDHHS-Recoupment
BSC4 Hearing Decisions
D. Sweeney
M. Holden
MAHS

Petitioner – Via First-Class Mail:

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