



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
MI [REDACTED]

Date Mailed: October 25, 2018
MAHS Docket No.: 18-009827
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Jeffrey Kemm

HEARING DECISION

Following Petitioner's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9, 7 CFR 273.15, and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on October 24, 2018, from Lansing, Michigan. Petitioner, [REDACTED] [REDACTED] appeared and represented himself. Recoupment Specialist, Rebecca Smalley, appeared and represented the Department. Eligibility Specialist, Lucas Photiou, appeared and facilitated the hearing for Petitioner.

One exhibit was admitted into evidence during the hearing. A 61-page packet of documents provided by the Department was admitted collectively as the Department's Exhibit A.

ISSUE

Did the Department properly determine that Petitioner was overissued FAP 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. Petitioner is a FAP recipient.
2. On [REDACTED] 2012, Petitioner applied for assistance from the Department, including FAP. Petitioner asserted in his application that he did not have any employment income. The Department instructed Petitioner to report all changes which could affect his eligibility for assistance to the Department within 10 days of the date of the change, including changes in employment and income. Petitioner signed his application.

3. Petitioner began working at [REDACTED] in May 2013. [REDACTED] issued Petitioner his first payroll remittance on May 17, 2013.
4. Petitioner did not report to the Department that he obtained employment.
5. The Department issued FAP benefits to Petitioner based on a \$0.00 income from May 2013 through December 2013.
6. The Department discovered that Petitioner had unreported income, so the Department verified Petitioner's income with his employer and then recalculated his FAP benefits based on his unreported income. The Department calculated that Petitioner was issued \$1,178.00 from July 2013 through December 2013 and that Petitioner was only entitled to receive \$221.00 from July 2013 through December 2013. Thus, the Department determined that Petitioner was overissued \$957.00.
7. On July 16, 2018, the Department sent a Notice of Overissuance to Petitioner.
8. On September 13, 2018, Petitioner requested a hearing to dispute the overissuance. Petitioner asserted that he was a victim of identity theft and that someone used his EBT card without his permission.

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.

When a client group receives more benefits than entitled to receive, the Department must attempt to recoup the overissuance. BAM 700 (January 1, 2018), p. 1. The overissuance amount is the amount of benefits issued to the client in excess of what he was entitled to receive. BAM 700, p. 1. The Department determines a client's monthly FAP benefit amount by determining the client's group size and countable household income and then looking that information up in its applicable Food Issuance Table. BEM 212 (January 1, 2017), BEM 213 (January 1, 2018), BEM 550 (January 1, 2017), BEM 554 (August 1, 2017), BEM 556 (April 1, 2018), and RFT 260 (October 1, 2017).

In this case, Petitioner received more benefits than he was entitled to receive. Petitioner failed to report his income to the Department, so the Department did not budget his income when calculating his FAP benefits. This resulted in the Department issuing more FAP benefits to Petitioner than he was entitled to receive. Petitioner did not dispute that he had unreported income or that he received FAP benefits based on a \$0.00 income. The Department presented sufficient evidence to establish that it overissued \$957.00 in FAP benefits to Respondent from July 2013 through December 2013.

Petitioner asserted that he should not have to repay the Department for FAP benefits that were overissued because someone stole his Bridge Card and completed EBT transactions without his permission. Once the Department issued FAP benefits to Petitioner's Bridge Card, the benefits belonged to Petitioner and whatever happened to them was his responsibility. Thus, Petitioner still owes the Department for the benefits that were overissued to him even if those benefits were stolen from him. Petitioner can pursue the theft of his benefits through law enforcement or civil court to try to obtain the value of the benefits that were stolen from him.

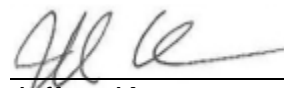
DECISION AND ORDER

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 did act in accordance with its policies and the applicable law when it determined Petitioner was overissued \$957.00 in FAP benefits.

IT IS ORDERED the Department's decision is AFFIRMED.

IT IS FURTHER ORDERED that the Department may initiate recoupment procedures for the amount of \$957.00 in accordance with Department policy.

JK/nr



Jeffrey Kemm
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

Lindsay Miller
125 E. Union St 7th Floor
Flint, MI
48502

Genesee Union St. County DHHS- via
electronic mail

OIG Hearings- via electronic mail

M. Shumaker- via electronic mail

DHHS Department Rep.

MDHHS-Recoupment
235 S Grand Ave
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Lansing, MI
48909

Petitioner

[REDACTED]
[REDACTED]
[REDACTED], MI
[REDACTED]