



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]
Date Mailed: December 10, 2018
MAHS Docket No.: 18-011343
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Zainab A. Baydoun

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 three-way telephone hearing was held on December 5, 2018, from Detroit, Michigan. The Petitioner appeared for the hearing and represented himself. The Department of Health and Human Services (Department) was represented by [REDACTED] and [REDACTED] Recoupment Specialists.

ISSUE

Did Petitioner receive an overissuance (OI) of Food Assistance Program (FAP) benefits that the Department is entitled to recoup?

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 was previously a recipient of FAP benefits issued by the Department. On March 23, 2016, the Department sent Petitioner a Notice of Case Action advising him that he was approved for FAP benefits based on [REDACTED] in reported budgeted earned income for his household size of one. (Exhibit A, pp. 32-33)
2. The Notice of Case Action further informs Petitioner that he is to report when his monthly household earnings exceed the simplified reporting limit of [REDACTED] for his household size of one. (Exhibit A, pp. 22-23)

3. Petitioner completed a redetermination that was received by the Department on September 2, 2016 on which he reported changes to his earnings. (Exhibit A, pp. 26-31)
4. A consolidated inquiry/wage match obtained by the Department determined that Petitioner had additional wages that were not timely reported. (Exhibit A, pp. 22-23)
5. In July 2018 the Department requested verification of Petitioner's earnings from his employer, who completed and returned an Earnings Request for Recoupment and included Petitioner's pay dates and pay amounts for the requested time period. (Exhibit A, pp. 24-25)
6. Based on the income information obtained, the Department concluded that Petitioner's earnings first exceeded the simplified reporting limit for his group size in April 2016.
7. On August 1, 2018 the Department sent Petitioner a Notice of Overissuance informing him that he received a client error caused OI of FAP benefits in the amount of [REDACTED] for the period of July 1, 2016 to September 30, 2016 because of a failure to timely report that his earnings had exceeded the simplified reporting limit. (Exhibit A, pp. 8-12)
8. On or around October 31, 2018 Petitioner requested a 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.

In this case, the Department alleges that Petitioner failed to timely report that his household income exceeded the income limit for his SR group, resulting in an overissuance of FAP benefits. The Department asserted that Petitioner's income exceeded the SR limit in April 2016, and as a result, he was overissued FAP benefits from July 2016 to September 2016.

On August 1, 2018 Department sent Petitioner a Notice of Overissuance informing him that he received a client error caused OI of FAP benefits in the amount of [REDACTED] for the period of July 1, 2016 to September 30, 2016 because of a failure to timely report that his earnings had exceeded the simplified reporting limit. (Exhibit A, pp. 8-12). The Department alleged that Petitioner was eligible for [REDACTED] in FAP benefits during the OI period.

When a client group receives more benefits than they are entitled to receive, the Department must attempt to recoup the OI. BAM 700 (January 2018), p. 1. A client error OI occurs when the client received more benefits than they were entitled to because the client gave incorrect or inaccurate information to the Department. BAM 700, pp. 4-6. An agency error OI is caused by incorrect actions by the Department, including delayed or no action, which result in the client receiving more benefits than they were entitled to receive. BAM 700, pp. 4-6. The amount of the overissuance is the benefit amount the group actually received minus the amount the group was eligible to receive. BAM 715 (January 2016), p. 6; BAM 705 (January 2016), p. 6.

Employment income is considered in the calculation of a client's FAP eligibility and amount. BEM 556 (April 2018, pp. 1-6). FAP recipients who are simplified reporters are required to report income only when the group's actual gross monthly income (not converted) exceeds the SR income limit for their group size. BAM 200 (January 2017), p. 1. No other change reporting is required. BAM 200, p. 1. If the group has an increase in income, the group must determine its total gross income at the end of that month, and if the total gross income exceeds the group's SR income limit, the group must report this change to the Department by the 10th day of the following month. BAM 200, p. 1. The Department sends the client simplified reporting information which explains the reporting requirements based on their circumstances at the time of issuance. The DHS-1605 Notice of Case Action is sent to provide the specific income limit for the group based on the group size. BAM 200, p. 2. For failure to report income over the limit, the first month of the overissuance is two months after the actual monthly income exceeded the limit. BAM 200, pp. 5-6.

Petitioner was notified, in a Notice of Case Action sent to him on March 23, 2016 that he was required to report when his household's gross income exceeded the [REDACTED] SR income limit based on his group size of one. Based on the evidence presented, Petitioner was properly advised on his reporting obligations and because he failed to timely report the change in his earnings, the OI in this case was correctly determined to be a result of client error.

The Department provided copies of the verification of income from Petitioner's employer which show that when his actual earnings are considered, the household earnings were in excess of the SR limit beginning in April 2016. Although the Department could have began the OI period in June 2016, the Department elected to start the OI period in July 2016. The Department also presented a Benefit Summary Inquiry showing that for the period at issue, Petitioner received [REDACTED] in FAP benefits.

In support of its FAP OI case, the Department presented FAP OI Budgets for each month in the OI period (July 2016 to September 2016) to show how the [REDACTED] OI was calculated. A review of the budgets shows that when the unreported income is included in the calculation of his FAP eligibility, Petitioner was eligible to receive [REDACTED] for the months at issue. Thus, the Department is entitled to recoup or collect from Petitioner [REDACTED] which is the difference between the [REDACTED] in FAP benefits actually issued and the [REDACTED] in FAP benefits he was eligible to receive.

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 establish a FAP benefit OI to Petitioner in the amount of [REDACTED].

DECISION AND ORDER

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

The Department is ORDERED to initiate recoupment and/or collection procedures for a [REDACTED] client error FAP OI in accordance with Department policy, less any amount that has already been recouped/collected.

ZB/tlf



Zainab A. Baydoun
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:

[REDACTED]

Petitioner – Via First-Class Mail:

[REDACTED]