



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: May 11, 2018
MAHS Docket No.: 18-003388
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 May 9, 2018, from Detroit, Michigan. Petitioner was present and represented himself. The Department of Health and Human Services (Department) was represented by Renee Olian, Hearing Coordinator and Walita Randle, Recoupment Specialist

ISSUE

Did Petitioner receive an overissuance 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 an ongoing FAP recipient between July 1, 2016 and April 30, 2017.
2. Petitioner was convicted of drug-related felonies on [REDACTED], 2010 and [REDACTED], 2016 (Exhibit E).
3. On October 3, 2016, Petitioner submitted a Semi-Annual Contact Notice (Exhibit G).
4. On March 19, 2018, the Department sent Petitioner a Notice of Overissuance informing him that he was overissued FAP benefits in the amount of \$1,940 for the period of July 1, 2016 through April 30, 2017 (Exhibit A).

5. On March 27, 2018, Petitioner submitted 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.

In this case, the Department alleged that Respondent was overissued FAP benefits because he failed to notify the Department of his two drug-related felonies, which would have resulted in his disqualification from receiving FAP benefits. 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. BEM 203 (October 2015), p. 2.

The Department presented documentation establishing that Respondent was convicted of drug-related felonies on [REDACTED], 2010 and [REDACTED], 2016. On [REDACTED] 2015, Petitioner submitted a redetermination. In the redetermination, Respondent stated he had not been convicted of a drug-related felony, nor had he been convicted more than once. However, Respondent did have one drug-related felony at that time. Additionally, the Department asserts that when completing the redetermination process, Respondent acknowledged that he had received the Information Booklet advising him of the "Things You Must Do" which explained reporting change circumstances, including changes regarding drug-related felony convictions.

The Department also presented a semi-annual submitted by Respondent on [REDACTED] 2016. In the semi-annual, Respondent reported no changes in circumstances. However, at that time, Respondent had two drug-related felonies.

Respondent acknowledged he had two drug-related felonies. Respondent testified that he was not aware he was required to report his drug-related felonies. When asked why he did not report any drug-related felonies on the [REDACTED], 2015 redetermination, he stated he was confused by the question.

Although Petitioner may not have intentionally withheld information regarding his drug-related felonies to the Department, the overissuance occurred because he failed to

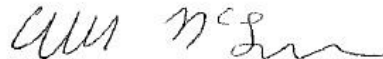
report the pertinent information. Therefore, the overissuance was a result of client error. When a client group receives more benefits that it is entitled to receive, the Department must attempt to recoup the overissuance. BAM 700 (October 2016), p. 1. A client error occurs when the client received more benefits than they were entitled to because the client gave incorrect or incomplete information to the Department. BAM 700, p. 6. The amount of the overissuance is the benefit amount the group received minus the amount the group was eligible to receive. BAM 705 (January 2016), p. 6.

The Department presented Petitioner's Benefit Summary which showed he was issued \$1,940 in FAP benefits during the period of July 1, 2016 through April 30, 2017. Petitioner was the only member of the FAP group. As stated above, Petitioner was not entitled to benefits during that time period because he had two drug-related felonies. As such, Petitioner was not entitled to any of the benefits he was issued. Therefore, the Department has established it is entitled to recoup \$1,940 in FAP benefits.

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 acted in accordance with Department policy when it determined Petitioner received an overissuance of FAP benefits in the amount of \$1,940. Accordingly, the Department's decision is **AFFIRMED**.

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) 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-Recoupment-Hearings
MDHHS-Kalamazoo-Hearings
M. Holden
D. Sweeney
BSC3-Hearing Decisions
MAHS

Petitioner – Via First-Class Mail:

