



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: October 3, 2018
MAHS Docket No.: 18-007686
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: John Markey

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 October 2, 2018, from Lansing, Michigan. Petitioner appeared and represented himself. The Department of Health and Human Services (Department) was represented by Dionere Craft, Hearings Facilitator, and Rhonda Holland, Recoupment Specialist.

ISSUE

Did Petitioner receive an overissuance of Food Assistance Program (FAP) benefits from June 1, 2017, through December 31, 2017, that the Department is entitled to recoup?

Did Petitioner receive an overissuance of Family Independence Program (FIP) benefits from June 1, 2017, through December 31, 2017, 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. During 2017, Petitioner was a recipient of FAP and FIP benefits.
2. On June 28, 2018, the Department issued to Petitioner a Notice of Overissuance informing Petitioner that the Department believed that it overissued Petitioner FAP benefits from June 1, 2017, through December 31, 2017, based on a Client Error.

3. On June 28, 2018, the Department issued to Petitioner a Notice of Overissuance informing Petitioner that the Department believed that it overissued Petitioner FIP benefits from June 1, 2017, through December 31, 2017, based on a Client Error.
4. On [REDACTED] 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.

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Department of Human Services) administers FIP pursuant to 45 CFR 233-260, MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3101-.3131.

When a client group receives more benefits than it is entitled to receive, the Department must attempt to recoup the overissuance. BAM 700 (January 1, 2018), p. 1. An agency error is caused by incorrect action by the Department staff or Department processes. BAM 700, p. 4. 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. 7. The amount of the overissuance is the benefit amount the group actually received minus the amount the group was eligible to receive. BAM 705 (January 1, 2016), p. 6. At a hearing to establish the existence and amount of any alleged overissuance, the Department bears the burden of proof. Michigan Administrative Code, Rule 792.11020(1).

In this case, the Department is attempting to establish an overissuance of FAP and FIP benefits after reviewing Petitioner's case and concluding that Petitioner was not entitled to most of the benefits he received from June 2017 through December 2017. Petitioner objects to the Department's attempt to collect the alleged overissuance.

During the hearing, the Department presented no substantive evidence to establish that Petitioner was overissued either FAP or FIP benefits. Rather, the Department could not

locate the hearing packet in either electronic or hardcopy format, and the Department employee who handled this case was not in the office. As the Department was unable to present either documentary or firsthand evidence regarding the alleged overissuance, the Department failed to meet its burden of substantiating the debt. Thus, based on the record presented, the Department failed to follow Department policy when assessing an overissuance of FAP and FIP benefits against Petitioner.

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 not act in accordance with Department policy when it determined Petitioner was overissued FAP benefits during the period of June 1, 2017, through December 31, 2017. Accordingly, the Department's decision in that respect is **REVERSED**.

Likewise, the Department did not act in accordance with Department policy when it determined Petitioner was overissued FIP benefits during the period of June 1, 2017, through December 31, 2017. Accordingly, the Department's decision in that respect is **REVERSED**.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Delete from Petitioner's case the alleged overissuance covering FAP benefits Petitioner received from June 1, 2017, through December 31, 2017.
2. Delete from Petitioner's case the alleged overissuance covering FIP benefits Petitioner received from June 1, 2017, through December 31, 2017.

JM/hb



John Markey
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

Demitra Owens
12140 Joseph Campau
Hamtramck, MI 48212

Wayne County (District 55), DHHS

BSC4 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

MDHHS-Recoupment via electronic mail

Petitioner

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