STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF: [redacted]

Respondent

Reg. No: 2007-15926
Issue No: 3055
Case No: [redacted]
Load No:
Hearing Date:
March 18, 2009
Oakland County DHS

ADMINISTRATIVE LAW JUDGE: Gary F. Heisler

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37, 7 CFR 273.16, MAC R 400.3130, and MAC R 400.3178 upon the Department of Human Services (department) request for a disqualification hearing. After due notice, a hearing was held on March 18, 2009. Respondent did not appear. The record contains returned undeliverable mail from a previously scheduled hearing. In accordance with Program Administrative Manual (PAM) 600 this hearing may still go forward because it is a Food Assistance Program (FAP) case.

ISSUE

Whether respondent committed an Intentional Program Violation (IPV) and whether respondent received an overissuance of benefits that the department is entitled to recoup?

FINDINGS OF FACT

The Administrative Law Judge, based upon the clear and convincing evidence on the whole record, finds as material fact:

(1) On March 31, 2006, respondent submitted an application for Food Assistance Program (FAP) benefits. Respondent signed the application acknowledging his responsibility to report changes in his circumstances that would affect her eligibility for benefits.

(2) On August 6, 2006, respondent began using her Michigan issued Food Assistance Program (FAP) benefits in [redacted]. All of respondent's Food Assistance Program (FAP) purchases between August 6, 2006 and February 28, 2007 were in [redacted].

(3) Respondent never reported she was no longer a Michigan Resident.

CONCLUSIONS OF LAW

The Food Assistance Program (FAP) (formerly known as the Food Stamp (FS) program) is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). The Department of Human Services (DHS or department) administers the FAP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3001-3015. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM)

In this case, the department has requested a disqualification hearing to establish an overissuance of benefits as a result of an IPV and the department has asked that respondent be disqualified from receiving benefits. The department's manuals provide the following relevant policy statements and instructions for department caseworkers:

> **PAM 720 INTENTIONAL PROGRAM VIOLATION**
>
> **DEPARTMENT POLICY**
>
> **All Programs**
>
> Recoupment policies and procedures vary by program and overissuance (OI) type. This item explains Intentional Program Violation (IPV) processing and establishment.

PAM 700 explains OI discovery, OI types and standards of promptness. PAM 705 explains agency error and PAM 715 explains client error.

DEFINITIONS

All Programs

Suspected IPV means an OI exists for which all three of the following conditions exist:

- The client **intentionally** failed to report information **or intentionally** gave incomplete or inaccurate information needed to make a correct benefit determination, **and**

- The client was clearly and correctly instructed regarding his or her reporting responsibilities, **and**

- The client has no apparent physical or mental impairment that limits his or her understanding or ability to fulfill their reporting responsibilities.

IPV is suspected when there is clear and convincing evidence that the client or CDC provider has intentionally withheld or misrepresented information for the **purpose** of establishing, maintaining, increasing or preventing reduction of program benefits or eligibility.

FAP Only

IPV is suspected for a client who is alleged to have trafficked FAP benefits.

IPV

FIP, SDA and FAP

The client/authorized representative (AR) is determined to have committed an IPV by:

- A court decision.
- An administrative hearing decision.
- The client signing a DHS-826, Request for Waiver of Disqualification Hearing or DHS-830, Disqualification Consent Agreement or other recoupment and disqualification agreement forms.

Eligibility for Food Assistance Program (FAP) benefits through the State of Michigan, requires being a resident of Michigan.

DECISION AND ORDER

The Administrative Law Judge, based upon the clear and convincing evidence, decides the following:

(1) Respondent committed an intentional program violation by intentionally failing to report her move to [redacted], in order to continue receiving Food Assistance Program (FAP) benefits from Michigan that she was no longer eligible for.

(2) Respondent was over-issued Food Assistance Program (FAP) benefits in the amount of $2,492 between August 6, 2006 and February 28, 2007. Respondent was not eligible for the Food Assistance Program (FAP) benefits issued during this period and the Department is entitled to recoup the $2,492.

/s/_____
Gary F. Heisler
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: May 20, 2009

Date Mailed: May 20, 2009

NOTICE: The law provides that within 30 days of receipt of the above Decision and Order, the respondent may appeal it to the circuit court for the county in which he/she lives.

GFH/om

cc: [redacted]