

STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No: 2008-14000

Issue No: 3055



Genesee County DHS

ADMINISTRATIVE LAW JUDGE: Vicki L. Armstrong

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Department of Human Services (department) request for a disqualification hearing. After due notice, a telephone hearing was held on July 19, 2011, at which Respondent did not appear. This matter having been initiated by the department and due notice having been provided to Respondent, the hearing was held in Respondent's absence in accordance with Bridges Administrative Manual, Item 725.

ISSUE

Whether Respondent committed an Intentional Program Violation (IPV) of the Food Assistance Program (FAP), Family Independence Program (FIP), and Child Development and Care (CDC) program 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. The department's Office of Inspector General (OIG) filed a hearing request to establish an overissuance of benefits received by Respondent as a result of Respondent having committed an Intentional Program Violation (IPV); the OIG also requested that Respondent be disqualified from receiving program benefits.
2. Respondent signed Assistance Application (DHS-1171) on January 24, 2002, April 1, 2002, May 14, 2002, January 28, 2003, September 19, 2003, March 24, 2005, August 8, 2005, April 13, 2006 and February 22, 2007 acknowledging that she understood her failure to give timely, truthful,

complete and accurate information about her circumstances could result in a civil or criminal action or an administrative claim against her. (Department Exhibits 17-21, 22-26, 27-34, 35-38, 39-46, 47-53, 54-60,61-68).

3. The Certificate of Birth's for both of Respondent's children list Respondent and Respondent's husband as their parents. Her first child was born October 12, 2000 and her second child was born May 7, 2002. (Department Exhibits 77-78).
4. On February 26, 2002, the department mailed Respondent an Eligibility Notice (FIA-4400) showing her FAP benefits were based on a household of 3 with no earned income. (Department Exhibits 73).
5. On April 18, 2002, the department mailed Respondent an Eligibility Notice (FIA-4400) showing her FAP benefits were based on a household of 3 with no earned income. (Department Exhibits 74).
6. On May 14, 2002, the department mailed Respondent an Eligibility Notice (FIA-4400) showing her FAP benefits were based on a household of 4 and no earned income. (Department Exhibits 75).
7. On August 7, 2002, the department mailed Respondent an Eligibility Notice (FIA-4400) showing her FAP benefits were based on a household of 4 and no earned income. (Department Exhibits 76).
8. On November 14, 2003, Respondent's CDC provider contacted the department and reported that she did not provide child daycare from March 2003 through September 2003 and that the father of the children was living in Respondent's home and working at [REDACTED]. Based on the information provided by Respondent's CDC provider, the department referred the case to the Office of Inspector General as a suspected Intentional Program Violation. (Department Exhibits 69-70).
9. On November 24, 2003, the department received Verification of Employment from [REDACTED] showing Respondent's husband was employed and had been employed since June 15, 2001. This income was not reported to the department. (Department Exhibits 71-72).
10. Respondent received [REDACTED] in FIP benefits and [REDACTED] in FAP benefits during the alleged fraud period of January 2002 through December, 2003. If Respondent had properly reported the members of her household and her husband's employment, Respondent would only have been eligible to receive [REDACTED] in FIP benefits and [REDACTED] in FAP benefits. (Department Exhibits 88-186).

11. Respondent failed to report that her husband and the father of her children was residing in her household, resulting in a FAP overissuance for the months of January 2002 through December, 2003, in the amount of [REDACTED] and a FIP overissuance of [REDACTED] (Department Exhibits 88-186).
12. Respondent reported that her children were being cared for by a child care provider and received [REDACTED] in CDC benefits from March 23, 2003 through December 27, 2003. On November 23, 2003, the child care provider reported that she had not provided child care March 2003 through November 2003. If Respondent had properly reported that she did not have a child care provider, Respondent would not have been eligible to receive CDC benefits. (Department Exhibits 187-191).
13. Respondent was clearly instructed and fully aware of the responsibility to report all employment and income to the department.
14. Respondent has no apparent physical or mental impairment that would limit the understanding or ability to fulfill the income reporting responsibilities.
15. Respondent had not committed any previous intentional program violations of the FIP, FAP or CDC programs. (Department Hearing Request).

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 Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 8 USC 601, *et seq.* The FIP program replaced the Aid to Dependent Children (ADC) program effective October 1, 1996. The Department of Human Services (DHS or department) administers the FAP and FIP programs pursuant to MCL 400.10, *et seq.*, and MAC R 400.3001-3015 and MAC R 400.3101-3131 respectively. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

The Child Development and Care program is established by Titles IVA, IVE, and XX of the Social Security Act, the Child Care and Development Block Grant of 1990, and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The program is implemented by Title 45 of the Code of Federal Regulations, Parts 98 and 99. The Department of Human Services (DHS or Department) provides services to adults and children pursuant to MCL 400.14(1) and MAC R 400.5001-5015. Department policies

are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and Reference Table Manual (RFT).

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 the respondent be disqualified from receiving benefits. The department's manuals provide the following relevant policy statements and instructions for department caseworkers.

When a customer client group receives more benefits than they are entitled to receive, the department must attempt to recoup the overissuance. BAM 700. A suspected intentional program violation means an overissuance where:

- 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.

The department suspects an intentional program violation when the client has intentionally withheld or misrepresented information for the purpose of establishing, maintaining, increasing, or preventing reduction of program benefits or eligibility. There must be clear and convincing evidence that the client acted intentionally for this purpose. BAM 720.

The department's Office of Inspector General processes intentional program hearings for overissuances referred to them for investigation. The Office of Inspector General represents the department during the hearing process. The Office of Inspector General requests intentional program hearings for cases when:

- benefit overissuances are not forwarded to the prosecutor.
- prosecution of welfare fraud is declined by the prosecutor for a reason other than lack of evidence, and
 - the total overissuance amount is \$1000 or more, or
 - the total overissuance amount is less than \$1000, and

- the group has a previous intentional program violation, or
- the alleged IPV involves FAP trafficking, Or
- the alleged fraud involves concurrent receipt of assistance,
- the alleged fraud is committed by a state/government employee.

A court or hearing decision that finds a client committed an intentional program violation disqualifies that client from receiving program benefits. A disqualified recipient remains a member of an active group as long as he lives with them. Other eligible group members may continue to receive benefits. BAM 720.

Clients that commit an intentional program violation are disqualified for a standard disqualification period except when a court orders a different period. Clients are disqualified for periods of one year for the first IPV, two years for the second IPV, lifetime disqualification for the third IPV, and ten years for a concurrent receipt of benefits. BAM 720. This is the respondent's first intentional FAP and FIP program violation.

In this case, the department has established that Respondent was aware of the responsibility to report all income, employment and household members to the department. Department policy requires clients to report any change in circumstances that will affect eligibility or benefit amount within ten days. BAM 105. Respondent has no apparent physical or mental impairment that limits the understanding or ability to fulfill the reporting responsibilities.

Respondent completed applications for assistance on January 24, 2002, April 1, 2002, May 14, 2002, January 28, 2003, and September 19, 2003. On November 14, 2003, Respondent's CDC provider contacted the department and reported that she had not provided child daycare from March 2003 through September 2003. The CDC provider also informed the department that the father of Claimant's children was living in Respondent's home and working at Kentucky Fried Chicken. Respondent did not report her boyfriend was living with her to the department.

The department obtained copies of Respondents husband's 2002 and 2003 tax returns. The tax returns show Respondent's husband was residing with Respondent at her address. Moreover, the birth certificates for Respondent's two children, born October 12, 2000 and May 7, 2002, list her husband as the father.

This Administrative Law Judge therefore concludes that the department has shown, by clear and convincing evidence, that Respondent committed a first intentional violation of the FAP and FIP program, resulting in a \$2,989.00 FAP overissuance and [REDACTED]

FIP overissuance from January 2002 to December, 2003. Consequently, the department's request for FIP and FAP program disqualification and full restitution must be granted.

Moreover, Respondent's signature on the Assistance Applications from January 24, 2002, April 1, 2002, May 14, 2002, January 28, 2003, and September 19, 2003, certifies that she was aware that fraudulent participation in FIP, FAP and CDC could result in criminal or civil or administrative claims. In this case, Respondent was also collecting CDC from March 23, 2003 through December 27, 2003, to which she was not entitled too. According to Claimant's childcare provider's uncontroverted statement, the childcare provider had not been providing childcare for Claimant's children during that time frame. As a result of Respondent's intentional misrepresentation to the department, Respondent fraudulently received [REDACTED] in CDC benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that Respondent committed an Intentional Program Violation of the FIP, FAP and CDC programs. Respondent failed to report that her husband was living in her household while she was receiving FIP and FAP benefits for the period of time from January 2002 through December, 2003. Respondent also fraudulently informed the department that her childcare provider was providing care for her children from March 23, 2003 through December 27, 2003.

Therefore, it is ordered that:

1. Respondent shall be personally disqualified from participation in the FIP and FAP programs for one year, but the rest of the household may participate. This disqualification period shall begin to run immediately as of the date of this order.
2. The department is entitled to recoup the overissuance of benefits Respondent ineligibly received. Respondent is ORDERED to reimburse the department for the [REDACTED] FAP overissuance, [REDACTED] FIP overissuance and her [REDACTED] CDC overissuance caused by her intentional program violations for a total of [REDACTED]

It is SO ORDERED.

/s/ _____
Vicki L. Armstrong
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: 7/20/11

Date Mailed: 7/20/11

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.

VLA/ds

