

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: 2008-23857

Issue No: 1052; 3052

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

January 14, 2009

Wayne 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 January 14, 2009. Respondent did not appear.

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 December 10, 2004, respondent submitted an application for Family Independence Program (FIP), Medical Assistance (MA), and Food Assistance Program (FAP) benefits. The application indicated that [REDACTED] resided with respondent.

(2) On March 15, 2005, respondent submitted an application for Family Independence Program (FIP), Medical Assistance (MA), and Food Assistance Program (FAP) benefits. The application indicated that [REDACTED] resided with respondent.

(3) On August 16, 2005, respondent submitted an application for Family Independence Program (FIP), Medical Assistance (MA), and Food Assistance Program (FAP) benefits. The application indicated that [REDACTED] resided with respondent.

(4) On October 26, 2005, respondent submitted an application for Family Independence Program (FIP), Medical Assistance (MA), and Food Assistance Program (FAP) benefits. The application indicated that [REDACTED] resided with respondent.

(5) On March 30, 2006, respondent submitted an application for Family Independence Program (FIP), Medical Assistance (MA), and Food Assistance Program (FAP) benefits. The application indicated that [REDACTED] resided with respondent.

(6) Between March 2005 and November 2006 [REDACTED] did not reside with respondent.

CONCLUSIONS OF LAW

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 Department of Human Services (DHS or department) administers the FIP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3101-3131. The FIP program replaced the Aid to Dependent Children (ADC) program effective October 1, 1996. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

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.

Clear and convincing evidence is evidence that “produce[s] in the mind of the trier of fact a firm belief or conviction as to the truth of the allegations sought to be established, evidence so clear, direct, and weighty and convincing as to enable [the fact finder] to come to a clear conviction, without hesitancy, of the truth of the precise facts in issue.” *In re Martin*, 450 Mich 204, 227; 538 NW2d 399 (1995), quoting *In re Jobes*, 108 NJ 394, 407-408; 529 A2d 434 (1987).

The department asserts that [REDACTED] was not in respondent’s home from March 2005 through October 2006. The department asserts [REDACTED] was living with her father during that time. Evidence on that issue includes: a signed statement from [REDACTED] school teacher for the

school year 2005-2006; a signed statement from [REDACTED] s doctor; a signed statement from [REDACTED] father; and [REDACTED] identification card issued 10/16/05 with her father's address on it.

There is no contradictory evidence in the record.

DECISION AND ORDER

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

(1) [REDACTED] committed an intentional program violation of the Family Independence Program (FIP) and Food Assistance Program (FAP) by falsely reporting that [REDACTED] was a member of her household in order to receive more benefits that she was eligible for.

(2) [REDACTED] received an over-issuance of [REDACTED] in Family Independence Program (FIP) benefits between November 2005 and October 2006. The Department of Human Services is entitled to recoup this over-issuance.

(3) [REDACTED] received an over-issuance of \$1,860 in Food Assistance Program (FAP) benefits between March 2005 and November 2006. The Department of Human Services is entitled to recoup this over-issuance.

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

Date Signed: February 26, 2009

Date Mailed: March 2, 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 [REDACTED]

cc: [REDACTED]