

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: 2008-23855
Issue No: 3052; 6052
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 February 28, 2005, respondent began employment at [REDACTED]

[REDACTED].

(2) On May 31, 2005, respondent submitted an application for Food Assistance Program (FAP) and Child Development and Care (CDC) benefits. The application indicated that

respondent was employed at a boutique 50 hours per week. Respondent signed the application which consists of acknowledgement of her responsibility to provide all income information.

(3) On September 3, 2005, respondent began receiving Unemployment Compensation Benefits (UCB). Those benefits continued through July 2006.

(4) On October 1, 2005, respondent submitted another application for Food Assistance Program (FAP) and Child Development and Care (CDC). This application showed that respondent's hours at the boutique were reduced to ■ per week. Respondent signed the application which consists of acknowledgement of her responsibility to provide all income information.

(5) On May 5, 2006, the department received a Verification of Employment (DHS Form 38) from Process Development Corp. The form indicated that respondent began working there on 2/28/05 and ended the employment on 3/15/06.

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).

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 contained 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 fact that respondent did not report current earnings on her two assistance applications clearly shows her fraudulent intent.

DECISION AND ORDER

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

(1) Walkisha Lee committed an intentional program violation in the Food Assistance Program (FAP) and Child Development and Care (CDC) program by not reporting all current sources of income in order to receive benefits she was not eligible for.

(2) Walkisha Lee received an over-issuance of [REDACTED] of Food Assistance Program (FAP) benefits between April 2005 and June 2006. The Department of Human Services is entitled to recoup this over-issuance.

(3) Walkisha Lee received an over-issuance of \$ [REDACTED] of Child Development and Care (CDC) benefits between July 2005 and November 2005. 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 25, 2009
Date Mailed: February 27, 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]