

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: 2008-24484  
Issue No: 3055; 4052  
Case No: [REDACTED]  
Load No: [REDACTED]  
Hearing Date:  
June 10, 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 June 10, 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) In 2001, Respondent began receiving Retirement, Survivors, Disability Insurance (RSDI) from the Social Security Administration.

(2) On March 11, 2003, Respondent submitted an application for assistance.

Respondent disclosed he was in the [REDACTED] program. Respondent did not

indicate he was disabled. Respondent did not disclose any type of income. Respondent signed the application acknowledging his responsibility to report changes within 10 days.

(3) On June 16, 2003, Respondent began employment at [REDACTED]

(4) On September 12, 2006, Respondent was sent an outdated Recoupment and Disqualification Agreement form.

(5) On October 16, 2006, Respondent signed the Recoupment and Disqualification Agreement form.

(6) On November 9, 2006, Respondent was sent the current Intentional Program Violation Repayment Agreement form and Disqualification Consent Agreement form containing the same information as the outdated form. Respondent wrote on the current form that he was requesting a hearing because he did not received State Disability Assistance (SDA) and did not have or feel the amount was proper or correct.

#### 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 State Disability Assistance (SDA) program which provides financial assistance for disabled persons is established by 2004 PA 344. The Department of Human Services (DHS or department) administers the SDA program pursuant to MCL 400.10, *et seq.*, and MAC R

400.3151-400.3180. 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).

In this case, Respondent submitted a fraudulent application because it did not disclose his Retirement, Survivors, Disability Insurance (RSDI) income. Respondent then ignored his responsibility to report changes when he did not report that he began receiving earned income in June, 2003. The purpose of these actions was to receive benefits that Respondent was not eligible for.

**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 submitting a fraudulent application. Respondent also committed an intentional program violation when he intentionally failed to report earned income. The purpose of these actions was to receive benefits he was not eligible for.

(2) Respondent was over-issued State Disability Assistance (SDA) benefits between February 1, 2003 and May 31, 2003 in the amount of \$132. The Department of Human Services is entitled to recoup the \$132 over-issuance.

(3) Respondent was over-issued Food Assistance Program (FAP) benefits between February 1, 2003 and February 28, 2004 in the amount of \$1, 616. The Department of Human Services is entitled to recoup the \$1, 616 over-issuance.

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

Date Signed: June 25, 2009

Date Mailed: June 29, 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 

cc: 