

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: 2009-15770

Issue No: 3055

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

April 29, 2009

Genesee 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 April 29, 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 September 6, 2001, Respondent began full time employment at [REDACTED]

[REDACTED]. The company is located in South Carolina.

(2) On October 10, 2001, Respondent signed and submitted an application for Food Assistance Program (FAP) benefits. The application did not disclose any earned income.

(3) On March 12, 2002, Respondent signed and submitted an application for Food Assistance Program (FAP) benefits. The application did not disclose any earned income.

(4) On November 1, 2002, Respondent signed and submitted an application for Food Assistance Program (FAP) benefits. The application did not disclose any earned income.

(5) On March 12, 2003, Respondent signed and submitted an application for Food Assistance Program (FAP) benefits. The application did not disclose any earned income.

(6) On October 21, 2003, Respondent signed and submitted an application for Food Assistance Program (FAP) benefits. The application did not disclose any earned income.

(7) On December 15, 2003, Respondent received her last pay check from NHP Management Company.

(8) On April 26, 2004, Respondent began full time employment at [REDACTED]

[REDACTED] The company is located in Alaska.

(9) On May 6, 2004, Respondent signed and submitted an application for Food Assistance Program (FAP) benefits. The application did not disclose any earned income.

(10) On August 19, 2004, Respondent's employment at [REDACTED] [REDACTED] ended.

(11) On November 21, 2004, Respondent began full time employment at [REDACTED]

[REDACTED]. The company is located in Ohio.

(12) On April 26, 2005, Respondent signed and submitted an application for Food Assistance Program (FAP) benefits. The application did not disclose any earned income.

(13) On September 12, 2005, when [REDACTED] filled out the Verification of Employment (DHS Form 38), Respondent was still employed.

## 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.

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).

Respondent's 7 fraudulent applications over a 4 year period are clear and convincing evidence of her intent to commit fraud in order to obtain more Food Assistance Program (FAP) benefits than she was 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 fraudulent applications for Food Assistance Program (FAP) benefits by not reporting full time employment earnings.

(2) Respondent was over-issued Food Assistance Program (FAP) benefits between November 1, 2001 and August 31, 2005, in the amount of \$7,831. The Department of Human Services is entitled to recoup the \$7,831 over-issuance.

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

Date Signed: June 15, 2009

Date Mailed: June 16, 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: 