

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: 2009-16704  
Issue No: 3055  
Case No: [REDACTED]  
Load No: [REDACTED]  
Hearing Date:  
June 10, 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 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) On November 20, 2002, Respondent submitted an application for Food Assistance Program (FAP) benefits. The application listed [REDACTED] (DOB 7/20/84), as a member of the benefit group and requested benefits for him. Respondent signed the application acknowledging her responsibility to report income changes within 10 days.

(2) In April, 2003 [REDACTED] began employment at [REDACTED]

(3) On November 21, 2003, Respondent submitted an application for Food Assistance Program (FAP) benefits. The application listed [REDACTED] as a member of the benefit group and requested benefits for him. The application disclosed that [REDACTED] had graduated but did not disclose any income for [REDACTED].

(4) On May 8, 2004, Respondent submitted an application for Food Assistance Program (FAP) benefits. The application did not list [REDACTED] as a member of the benefit group.

### 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).

In this case, [REDACTED] was over 18 when he started employment. Program Eligibility Manual (PEM) 500 does not excuse his income as student income even while he was still in high school. Respondent did not report his income at all and failed to disclose it when she submitted the application in November 2003 after [REDACTED] had graduated. The evidence in this case shows that Respondent intentionally failed to report that [REDACTED] began receiving employment income and that she submitted a fraudulent application because it did not disclose [REDACTED]’s income.

#### 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 intentionally failing to report earned income of a benefit group member. Respondent also committed an intentional program violation by submitting a fraudulent application that did not disclose a group member’s earned income. The purpose for these actions was to receive Food Assistance Program (FAP) benefits she was not eligible for.

(2) Respondent was over-issued Food Assistance Program (FAP) benefits between May 1, 2003 and April 30, 2004 in the amount of \$2,613. The Department of Human Services is entitled to recoup the \$2,613 over-issuance.

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

Date Signed: June 25, 2009

Date Mailed: June 26, 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: 