

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.: 2009-33873

Issue No.: 3052

Case No.: [REDACTED]

Load No.: [REDACTED]

Hearing Date:

March 31, 2010

Wayne County DHS (35)

ADMINISTRATIVE LAW JUDGE: Michael J. Bennane

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 Service (Department) request for a disqualification hearing. After due notice, a telephone hearing was held on March 31, 2009. The respondent personally appeared and testified. The Department was represented by [REDACTED], Office of Inspector General.

ISSUES

- (1) Is the Department entitled to recoup \$2,399.00 in FAP benefits?
- (2) Should the respondent be disqualified from the FAP program for one year?

FINDINGS OF FACT

The Administrative Law Judge, based upon clear and convincing evidence on the whole record, finds as material fact:

- (1) On July 21, 2009, the Department filed a hearing request to establish an intentional program violation. The Department is requesting to recoup \$2,399.00 in FAP benefits for the period of August 1, 2005, through February 28, 2006.

- (2) On January 26, 2005, and again on August 17, 2005, the respondent signed applications and acknowledged the obligation to report change in the circumstances that might affect the respondent's benefits.

CONCLUSIONS OF LAW

The Food Assistance Program (FAP) (formerly known as the Food Stamp 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 administers the FAP program pursuant to MCL 400.10, 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 recoupment of the over issuance. The department's manuals provide the relevant policy statements and instructions for department caseworkers. In part, the policies provide:

BENEFIT OVERISSUANCES: PAM 700, p. 1

DEPARTMENT POLICY

All Programs

When a customer group receives more benefits than they are entitled to receive, the department must attempt to recoup the over issuance (OI).

The **Automated Recoupment System (ARS)** is the part of CIMS that tracks all FIP, SDA and FAP OIs and payments, issues automated collection notices and triggers automated benefit reductions for active programs.

An **over issuance (OI)** is the amount of benefits issued to the customer group in excess of what they were eligible to receive.

Over issuance Type identifies the cause of an over issuance.

Recoupment is a department action to identify and recover a benefit over issuance. PAM 700, p.1.

PREVENTION OF OVERISSUANCES

All Programs

The department must inform customers of their reporting responsibilities and act on the information reported within the standard of promptness.

During eligibility determination and while the case is active, customers are repeatedly reminded of reporting responsibilities, including:

- Acknowledgments on the application form, **and**
- Your explanation at application/re-determination interviews, **and**
- Customer notices and program pamphlets.

The department must prevent OIs by following PAM 105 requirements and by informing the customer or authorized representative of the following:

- Applicants and recipients are required by law to give complete and accurate information about their circumstances.
- Applicants and recipients are required by law to promptly notify the department of any changes in circumstances within 10 days.
- Incorrect, late reported or omitted information causing an OI can result in cash repayment or benefit reduction.
- A timely hearing request can delete a proposed benefit reduction. If the department is upheld or the customer fails to appear at the hearing, the customer must repay the OI.

Record on the application the customer's comments and/or questions about the above responsibilities. PAM 700, p.2.

OVERISSUANCE AMOUNT

FIP, SDA, CDC and FAP Only

The amount of the OI is the amount of benefits the group actually received minus the amount the group was eligible to receive. PAM 720, p. 6.

DISQUALIFICATION

FIP, SDA and FAP Only

Disqualify an active **or** inactive recipient who:

- is found by a court or hearing decision to have committed IPV, **or**
- has signed an FIA-826 or FIA-830, **or**
- is convicted of concurrent receipt of assistance by a court, **or**

A disqualified recipient remains a member of an active group as long as he lives with them. Other eligible group members may continue to receive benefits.

Standard Disqualification Periods PAM 720, pp. 12, 13 FIP, SDA and FAP

The standard disqualification period is used in all instances except when a **court** orders a different period (see **Non-Standard Disqualification Periods** in this item).

Apply the following disqualification periods to recipients determined to have committed IPV:

- One year for the first IPV
- Two years for the second IPV
- Lifetime for the third IPV

The federal Food Stamp regulations read in part:

(c) Definition of **intentional program violation**. For purposes of determining through administrative disqualification hearings whether or not a person has committed an intentional program violation, intentional program violations shall consist of having intentionally: (1) Made a false or misleading statement, or misrepresented, concealed or withheld facts, or (2) committed any act that constitutes a violation of the Food Stamp Act, the Food Stamp Program regulations, or any State statute related to the use, presentation, transfer, acquisition, receipt, or possession of food stamp coupons or ATP's. 7 CFR 273.16(c).

The federal Food Stamp regulations read in part:

(6) Criteria for determining intentional program violation. The hearing authority shall base the determination of intentional program violation on clear and convincing evidence which demonstrates that the household member(s) committed, and intended to commit, intentional program violation as defined in paragraph (c) of this section. 7 CFR 273.16(c) (6).

All Programs

Suspected IPV means an OI exists for which all three of the following conditions exist:

- The customer intentionally failed to report information or intentionally gave incomplete or inaccurate information needed to make a correct benefit determination; **and**
- The customer was clearly and correctly instructed regarding his or her reporting responsibilities; **and**
- The customer has no apparent physical or mental impairment that limits his or her understanding or ability to fulfill his/her reporting responsibilities. PAM 720, p. 1.

The law provides that disposition may be made of a contested case by stipulation or agreed settlement. MCL 24. 278(2). In the instant case, the parties reached an accord. The respondent agreed to sign the repayment agreement. Respondent owes \$2,399.00 in FAP benefits. The Department is entitled to recoup this amount.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, finds that the department and respondent have come to an agreement. The evidence does establish that the Respondent committed a first IPV of the FAP program. The Department's request for disqualification from the FAP program for one year is GRANTED.

The Department is entitled to recoup over issuance of FAP benefits a total of \$2,399.00.



Michael J. Bennane
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 4/27/2010

Date Mailed: 4/27/2010

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.

MJB/jlg

cc:

