

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

██████████,

Respondent

Reg. No.: 2009-36728

Issue No.: 6052

Case No.: ██████████

Load No.: ██████████

Hearing Date:

January 13, 2010

Wayne County DHS (73)

ADMINISTRATIVE LAW JUDGE: Jeanne M. VanderHeide

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Department's request for a hearing. After due notice, a telephone hearing was conducted from Detroit, Michigan, on January 13, 2010. The Respondent did not appear at the hearing and it was held in Respondent's absence pursuant to 7 CFR 273.16(e), MAC R 400.3130(5), or MAC R 400.3187(5). ██████████ representative, appeared on behalf of the Department.

ISSUE

Whether Respondent committed an Intentional Program Violation (IPV) and whether the Respondent received an over-issuance of benefits that the Department is entitled to recoup?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material, and substantial evidence on the whole record, finds a material fact:

1. The Department's Office of Inspector General (OIG) filed a hearing request to establish an over-issuance of benefits received by Respondent as a result of Respondent having committed an IPV. The OIG also requested that Respondent be disqualified from receiving program benefits.
2. Respondent was a recipient of CDC benefits during the period of at least 10/1/04 through 5/28/05.
3. Respondent was aware of the responsibility to report all income and work in the household to the Department and had no apparent physical or mental impairment that would limit the understanding or ability to fulfill this requirement.
4. The Department testified that the employer address listed by Respondent was not valid. The OIG agent testified that she physically went to the address and it was a vacant lot. Furthermore, mail delivered to the employer came back undeliverable.
5. As a result of the failure to actually be working, or engaged in other approved activity while receiving CDC benefits, Respondent committed an IPV and received an over-issuance of benefits.
6. As a result, Respondent received over-issuances in the amount of \$16,720.00 under the CDC program.
7. The Department has established that Respondent committed an IPV.
8. This was Respondent's first Intentional Program Violation.
9. A notice of disqualification hearing was mailed to Respondent at the last known address and was not returned by the US Post Office as undeliverable.

CONCLUSIONS OF LAW

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 (formerly known as the Family Independence Agency) 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).

When a client group receives more benefits than they are entitled to receive, DHS must attempt to recoup the over-issuance (OI). PAM 700, p. 1. DHS must inform clients of their reporting responsibilities and prevent OIs by following PAM 105 requirements informing the client of the requirement to promptly notify DHS of all changes in circumstances within 10 days. PAM 700, PAM 105. Incorrect, late reported or omitted information causing an OI can result in cash repayment or benefit reduction.

An Intentional Program Violation (IPV) is suspected when there is clear and convincing evidence that the client has intentionally withheld or misrepresented information for the purpose of establishing, maintaining, increasing or preventing reduction of program benefits or eligibility. PAM 720, p. 1. 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).

For FIP, the IPV exists when an administrative hearing decision, a repayment and disqualification agreement or court decision determines there was an Intentional Program Violation. PAM 720, p. 1. The amount of the OI is the amount of benefits the group or provider actually received minus the amount the group was eligible to receive. PAM 720, p. 6.

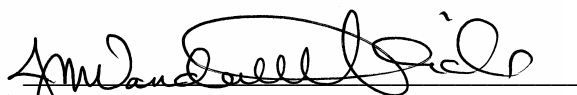
In the present case, the Department has established that Respondent was aware of the responsibility to report all income and changes in employment in the household and had no apparent limitations to fulfilling this requirement. The Respondent failed to show that she was working at a valid employer. As a result, Respondent committed an IPV and was over-issued CDC benefits. Under the aforementioned policy, Respondent is to be disqualified from the CDC program for a period of twelve (12) months.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that Respondent committed an IPV with regard to the CDC program and received over-issuances in program benefits.

It is ORDERED that Respondent be disqualified from the CDC program for a period of 12 months.

It is further ORDERED that the Department recoup for over-issuances in FAP benefits in the amount of \$16,720.00.



Jeanne M. VanderHeide
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: February 2, 2010

Date Mailed: February 3, 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.

JV/pf

cc:

