

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201010995
Issue No.: 3052/3055
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: July 21, 2010
Marquette County DHS

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the claimant's request for a hearing. After due notice, a telephone hearing was held on July 21, 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). Edgar Barnes, OIG 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 as 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. The Claimant applied for FAP March 30, 2004 and listed her son as a group member.
3. The Claimant's son began working and earning income on June 28, 2004 and the Claimant did not advise the Department of the change in her FAP group income.

4. The Claimant completed another application for FAP on September 29, 2004 and did not report that her son was working and receiving income as a FAP group member. The Claimant's son began work on June 28, 2004 and ceased working on March 31 2005.
5. Respondent was a recipient of FAP benefits during the period of June 28, 2004 through March 31, 2005.
6. Respondent was aware of the responsibility report a change in income and accurately reporting all income and employment earned income and had no apparent physical or mental impairment that would limit the understanding or ability to fulfill this requirement.
7. Respondent did not report her son's employment income from [REDACTED] [REDACTED]. The Claimant's son began this employment June 28, 2004, shortly after the Respondent had completed her application for FAP benefits.
8. The Respondent failed to report her son's income at any time during the period she was receiving FAP benefits.
9. Respondent received more FAP benefits than she was otherwise entitled during the period 8/1/04 through 3/31/2005. As a result of the failure to report her son's earned income Respondent committed an IPV and received an over issuance of FAP benefits.
10. As a result, respondent received FAP over issuances in the amount of \$1482 under the FS/FAP program.
11. The Department has established that Respondent committed an IPV.
12. This was Respondent's first Intentional Program Violation for the FS/FAP program.
13. A notice of disqualification hearing was mailed to Respondent at the last known address.

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 (formerly known as the Family

Independence Agency) administers the FAP program pursuant to CML 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).

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 Over Issuances 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).

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 change in household income and her son's employment and correctly report household income and received more FAP benefits than she was otherwise entitled to receive, and had no apparent limitations to fulfilling this requirement. The respondent failed to report the change in employment and change in income which resulted in an over issuance of FS/FAP benefits in the amount of \$1482. As a result the Respondent committed an IPV and was over issued FS/FAP. Under the aforementioned policy, respondent is to be disqualified from the FAP/FS program for a period of one (1) year. BAM 720 page 12.

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 FAP program and received over issuances in program benefits.

It is ORDERED that respondent be disqualified from the FAP program for a period of one (1) year.

It is further ORDERED that the Department recoup for over issuances in FAP benefits in the amount of \$1482.



Lynn M. Ferris
Administrative Law Judge
For Ismael Ahmed, Director
Department of Human Services

Date Signed: 07/23/2010

Date Mailed: 07/23/2010

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.

LMF/jlg

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