

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF: [REDACTED],
Claimant,

Reg. No.: 2010 26928
Issue No.: 1052, 3055
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
June 30, 2010
Genesee County DHS (02)

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 June 30, 2010. 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). [REDACTED], OIG representative appeared on behalf of the Department.

REHEARING DETERMINATION

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 overissuance of FIP and FAP 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. On May 19, 2010, the Department mailed Respondent a hearing notice and hearing packet to Respondent's last known address – [REDACTED]
[REDACTED]
3. The hearing packet was returned as undeliverable.

CONCLUSIONS OF LAW

The Family Independence Program (“FIP”) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 8 USC 601, *et seq.* The Department of Human Services administers the FIP program pursuant to MCL 400.10, *et seq* and MAC R 400.3101-3131. The FIP program replaced the Aid to Dependent Children (“ADC”) program effective October 1, 1996. The Food Assistance Program, 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”), formally known as the Family Independence Agency, administers the FAP program pursuant to MCL 400.10, *et seq* and MAC R 400.3001-3015. Department policies are found in the Program/Bridges Administrative Manual (“PAM/BAM”), the Program/Bridges Eligibility Manual (“BEM”), and the Reference Tables (“RFT”).

When a client group receives more benefits than they are entitled to receive, DHS must attempt to recoup the over issuance (OI). PAM/BAM 700, p. 1. DHS must inform clients of their reporting responsibilities and prevent OIs by following BAM/PAM 105 requirements informing the client of the requirement to promptly notify DHS of all changes in circumstances

within 10 days. PAM/BAM 700, PAM/BAM 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.

BAM/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).

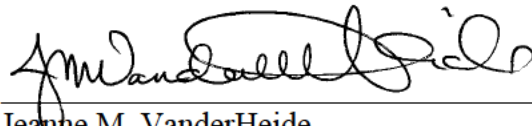
For FIP, the IPV exists when an administrative hearing decision, a repayment and disqualification agreement or court decision determines FIP benefits were trafficked. PAM 720, p. 2. The amount of the OI is the amount of benefits the group or provider actually received minus the amount the group was eligible to receive. BAM/PAM 720, p. 6.

A Notice of Disqualification Hearing was mailed to respondent at the last known address and was returned by the U.S. Post Office as undeliverable. Respondent's last known address is: [REDACTED]. Accordingly, the hearing request for the FIP IPV is dismissed without prejudice because the notice of hearing was returned by the Post Office as undeliverable. PAM/BAM 725. In addition, the Department chose to dismiss the FAP case without prejudice as well in order to provide Respondent notice of both IPV's.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of

law, dismisses the entire IPV hearing without prejudice.



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

Date Signed: 07/12/2010

Date Mailed: 07/12/2010

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/cjp

cc:

