

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.: 201036053
Issue No.: 1052
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). [REDACTED], 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 FIP 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 Respondent applied for FAP and FIP benefits on October 20, 2005.
3. At the time she applied for benefits the Respondent correctly advised the Department that she was not receiving child support.

4. Respondent was a recipient of FIP benefits during the period of January 6, 2006 through February 6, 2006.
5. 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.
6. Respondent did not report the child support income she received in the month of January 2006 through February 6, 2006.
7. Respondent received more FIP benefits than she was otherwise entitled during the period January 6, 2006 through February 6, 2006. As a result of the failure to report the receipt of child support payment she received, the Respondent received an over issuance of benefits in the amount of \$1104.
8. The child support received in January 2006 was the first child support the Claimant received since June 2005 and that during the period beginning October 2004 and ending March 2006 the Claimant only received three child support payments.
9. As a result of the respondent's error in failing to report the child support income during the period January 6, 2006 through February 6, 2008 the respondent did not commit an IPV, but did receive an over issuance of benefits.
10. The Department's Hearing Summary alleged that the Claimant filed a SER application on January 6, 2006 and did not report receiving child support income. During the hearing the Department's agreed that its statement regarding the filing of an SER application was in error.
11. The Department's Hearing Summary also provided that the Respondent filed a redetermination/ application on 1/10/06 but did not provide or produce same at the hearing.
12. The Department has not established that respondent committed an IPV.
13. A notice of disqualification hearing was mailed to respondent at the last known address.
14. The Department's request for hearing as it pertains to FIP was mailed to respondent at the last known address and was not returned by the US Post Office.

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. 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 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).

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 correctly report household income and received more FIP benefits than she was otherwise entitled to receive, and had no apparent limitations to fulfilling this requirement. The respondent failed to report one month of child support payment she received after not receiving any child support since 2004 except one other payment received in June 2005. The Claimant realistically could not expect to receive child support and failure to report a one month payment does not establish an intentional program violation, but at best is client error. The Claimant did however receive an over issuance of FIP benefits in the amount of \$1104 which the Department is entitled to recoup.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that respondent did not commit an IPV with regard to the FIP program and received over issuances in program benefits.

It is ORDERED that the Department recoup for over issuance in FIP benefits in the amount of \$1104.

It is further ORDERED that the Department is not entitled to a FIP program disqualification as the evidence presented did not establish an Intentional Program Violation.



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

Date Signed: 07/27/2010

Date Mailed: 07/27/2010

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.

LMF/jlg

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