

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.: 2010-38873
Issue No.: 1052
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: August 4, 2010
Marquette County DHS

ADMINISTRATIVE LAW JUDGE: Jan Leventer

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to Michigan Compiled Laws (MCL) 400.9 and 400.37 and the request for a hearing by the Department of Human Services (DHS). After due notice, a telephone hearing was held on August 4, 2010. The Respondent, [REDACTED] did not appear. [REDACTED], appeared and testified on behalf of DHS.

ISSUE

Whether an Intentional Program Violation (IPV) of the Family Independence Program (FIP) was committed by Respondent and whether an overissuance (OI) of benefits occurred which DHS is entitled to recoup?

FINDINGS OF FACT

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

1. On May 1, 2006, Respondent began receiving FIP benefits for herself and her three children.
2. On July 25, 2006, Respondent received child support income from the children's father in [REDACTED].
3. On August 2, 2006, Respondent reported receipt of child support income to DHS.
4. DHS failed to incorporate Respondent's child support income into the FIP budget, causing an OI of FIP benefits for four months, July-October 2006.

5. As a result, Respondent received an OI of FIP benefits totaling \$2,362.
6. This is the first allegation of IPV against Respondent.
7. A Notice of Disqualification Hearing was mailed to the Respondent at her last known address and was not returned as undeliverable by the U.S. Post Office.
8. DHS has not established that Respondent committed an IPV.

CONCLUSIONS OF LAW

FIP was established by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 8 USC 601, *et seq.* DHS administers FIP pursuant to MCL 400.10, *et seq.*, and Michigan Administrative Code Rules 400.3101-3131. DHS policies are found online in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Tables Manual (RFT). www.michigan.gov/dhs-manuals.

However, the DHS policies and procedures in effect on July 25, 2006, are not available online. I will quote the applicable policy in my decision so that the parties can understand the basis of my decision.

Policy Administrative Manual (PAM) Item 720, "Intentional Program Violation," came into effect on October 1, 2005, and was in effect on July 25, 2006. PAM 720 states there are three requirements for a finding of IPV:

Suspected IPV

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 their reporting responsibilities.

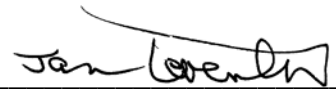
Intentional Program Violation (IPV) is suspected when the customer has intentionally withheld or misrepresented information for the purpose of establishing, maintaining, increasing or preventing reduction of program benefits or eligibility. There must be clear and convincing evidence that the customer acted intentionally for this purpose. PAM 720, effective October 1, 2005, p. 1. (Bold print and underlining in original.)

Based on my findings of fact and all of the evidence in this case considered as a whole, I find that a DHS error and not an IPV occurred in this case. Respondent reported the income eight days after it was received, but DHS failed to incorporate the income into the budget calculations, causing an OI for four months. I find there is no evidence whatsoever that Respondent intentionally failed to report information or reported inaccurate or incomplete information; on the contrary, I conclude that Respondent fulfilled her responsibility in the manner prescribed by law.

I, therefore, determine that, as the first of the IPV steps has not been met, there can be no IPV in this case, and DHS' request for an IPV finding is DENIED. Regarding OI, I conclude that an OI occurred and DHS is entitled to recoup it. DHS' request for recoupment authority for recoupment of \$2,362 is GRANTED.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, DENIES DHS' request for a finding of IPV, and GRANTS DHS' request for authority to recoup the OI of \$2,362.



Jan Leventer
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: August 10, 2010

Date Mailed: August 10, 2010

2010-38873/JL

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.

JL/pf

cc:

