

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: 2010-40913
Issue No: 3030
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
August 19, 2010
Calhoun County DHS

ADMINISTRATIVE LAW JUDGE: Landis Y. Lain

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon claimant's request for a hearing. After due notice, an in-person hearing was held on August 19, 2010. Claimant personally appeared and testified.

ISSUE

Whether or not there is a hearable issue in this case?

FINDINGS OF FACT

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

- (1) Claimant signed a DHS-830-disqualification consent agreement and a DHS-4350 intentional program violation repayment agreement with the Office of Inspector General on June 14, 2010, agreeing to a 12 month disqualification from the Food Assistance Program for himself and to repay \$ [REDACTED] in Food Assistance Program benefits in lieu of prosecution for fraud.
- (2) After receipt of this agreement on June 14, 2010, the department imposed a 12 month sanctions for both programs to begin July 1, 2010 through June 30, 2011, and initiated a FAP recoupment. The Food Assistance Program was active with claimant as the only eligible member so action to close the Food Assistance Program effective July 1, 2010, due to the disqualification.
- (3) Claimant was mailed a DHS-4357, intentional program violation client notice on June 18, 2010, informing him of the disqualification and the closure of his FAP benefits. This notice contained wording that stated (A

hearing only will be granted only if the reasons for the requesting a hearing is if incorrect computation of the reduction in your monthly benefits.)

- (4) On June 28, 2010, claimant filed a request for a hearing to contest the department's negative action.

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 (DHS or department) administers the FAP program pursuant to MCL 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)

In the instant case, claimant admitted on the record that he did sign the repayment agreement and consent for intentional program violation, but stated that he signed the paperwork under duress and he didn't have the money to repay the over issued Food Assistance Program benefits. Claimant also stated that he did not intentionally receive the Food Assistance Program benefits.

Department policy at BAM, Item 720, states that recoupment policies and procedures vary by program and over issuance type. An IPV or intentional program violation means an over issuance exists for which all the three following conditions exist:

- The client intentionally failed to report information or intentionally gave incomplete or inaccurate information needed to make a correct benefit determination, and
- The client was clearly and correctly instructed regarding his/her reporting responsibilities, and
- The client has no apparent physical or mental impairments that limits his/her understanding or ability to fulfill their reporting responsibilities.

Intentional program violation is suspected when there is a clear and convincing evidence that the client or CDC provider has intentionally withheld and misrepresented information for the purpose of establishing, maintaining, increasing, or preventing reduction of program benefits or eligibility.

In the instant case, claimant did concede on the record that he did sign the consent to pay the Food Assistance Program benefits back and that he was working and he got laid off and was receiving unemployment compensation benefits but did not notify the department. Claimant was aware of his reporting responsibilities and did not have an

apparent physical or mental impairment that limited his understandings or ability to fulfill his reporting responsibilities.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department has appropriately determined that claimant received an over issuance of Food Assistance Program benefits in the amount of \$ [REDACTED] and that claimant committed an intentional program violation. The department has also established by the necessary competent, material and substantial evidence on the record that claimant was clearly and correctly instructed regarding his reporting responsibilities and that the client had no apparent physical or mental impairment that limited his understanding or ability to fulfill his reporting responsibilities. The claimant failed to report information needed to make a correct benefit determination.

Accordingly, the claimant's request for a hearing is hereby DISMISSED and department's decision is AFFIRMED.

Landis

/s/

Y. Lain
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: August 26, 2010

Date Mailed: August 26, 2010

NOTICE: Administrative Hearings may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. Administrative Hearings will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

LYL/alc

cc:

[REDACTED]