

STATE OF MICHIGAN  
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE  
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No: 201042215

Issue No:



Case No:

Load No:

Hearing Date:

December 14, 2010

Genesee County DHS

ADMINISTRATIVE LAW JUDGE: Vicki L. Armstrong

**HEARING DECISION**

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Department of Human Services (department) request for a disqualification hearing. After due notice, a telephone hearing was held on December 14, 2010. Respondent personally appeared and provided testimony.

**ISSUE**

Whether Respondent committed an Intentional Program Violation (IPV) of the Food Assistance Program (FAP) and Family Independence Program (FIP) and whether Respondent received an overissuance of benefits that the department is entitled to recoup?

**FINDINGS OF FACT**

The Administrative Law Judge, based upon the clear and convincing 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 overissuance of benefits received by Respondent as a result of Respondent having committed an Intentional Program Violation (IPV); the OIG also requested that Respondent be disqualified from receiving program benefits.
2. Respondent signed Assistance Application (DHS-1171) on April 8, 2005, acknowledging that she understood her failure to give timely, truthful, complete and accurate information about her circumstances could result in a civil or criminal action or an administrative claim against her. (Department Exhibit 1, page 1, 7-14).

3. Respondent submitted a signed Child Care and Development application in July 2005, on which she listed employment at [REDACTED] and her first paycheck on July 8, 2005. (Department Exhibit 1).
4. A Verification of Employment form received by the department from [REDACTED] shows Respondent's date of employment as beginning on April 27, 2005. (Department Exhibit 1, page 15).
5. The Office of Inspector General indicates that the time period they are considering the fraud period for FAP is June 1, 2005 through August 31, 2005. The time period they are considering the fraud period for FIP is May 1, 2005 through August 31, 2005. (Department Exhibit 1, pages 2-6).
6. During the alleged fraud periods in which Respondent was receiving FIP and FAP, Respondent was employed by [REDACTED]. Respondent was issued \$658.00 in FAP benefits and \$1,448.00 in FIP benefits. (Department Exhibit 1, pages 1, 18-21).
7. The department is pursuing the fraud period of June 1, 2005 through August 31, 2005 for the FAP program. Respondent received \$658.00 in FAP benefits during the respective alleged fraud period. The department is pursuing the fraud period of May 1, 2005 through August 31, 2005 for the FIP program. Respondent received \$1,448.00 in FIP benefits during the alleged fraud period. If Respondent had informed the department she had started working in April 2005, Respondent would not have received excess benefits for the Michigan FAP or FIP programs. (Department Exhibit 1, pages 18-21, 22-39).
8. Respondent was clearly instructed and fully aware of the responsibility to report all employment and income to the department.
9. Respondent did not report to the department that she had started a new job on April 27, 2005. This resulted in an overissuance of \$658.00 for the FAP program and \$1,448.00 for the FIP program. (Department Exhibit 1, pages 1, 7-15, 18-21, 22-39).
10. As a result of the failure to report that she was working, Respondent committed an IPV and received an overissuance of benefits.
11. Respondent has no apparent physical or mental impairment that would limit the understanding or ability to fulfill the income reporting responsibilities.
12. Respondent had not committed any previous intentional program violations of the FAP or FIP program. (Department Hearing Request).

## **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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

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 (DHS or department) 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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

In this case, the department has requested a disqualification hearing to establish an overissuance of benefits as a result of an IPV and the department has asked that the respondent be disqualified from receiving benefits. The department's manuals provide the following relevant policy statements and instructions for department caseworkers.

When a customer client group receives more benefits than they are entitled to receive, the department must attempt to recoup the overissuance. BAM 700. A suspected intentional program violation means an overissuance where:

- 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 or her reporting responsibilities, and
- the client has no apparent physical or mental impairment that limits his or her understanding or ability to fulfill their reporting responsibilities.

The department suspects an intentional program violation when the client 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 client acted intentionally for this purpose. BAM 720.

The department's Office of Inspector General processes intentional program hearings for overissuances referred to them for investigation. The Office of Inspector General represents the department during the hearing process.

The Office of Inspector General requests intentional program hearings for cases when:

- benefit overissuances are not forwarded to the prosecutor.
- prosecution of welfare fraud is declined by the prosecutor for a reason other than lack of evidence, and
  - the total overissuance amount is \$1000 or more, or
  - the total overissuance amount is less than \$1000, and
    - the group has a previous intentional program violation, or
    - the alleged IPV involves FAP trafficking, or
    - the alleged fraud involves concurrent receipt of assistance,
    - the alleged fraud is committed by a state/government employee.

A court or hearing decision that finds a client committed an intentional program violation disqualifies that client from receiving program benefits. A disqualified recipient remains a member of an active group as long as he lives with them. Other eligible group members may continue to receive benefits. BAM 720.

Clients that commit an intentional program violation are disqualified for a standard disqualification period except when a court orders a different period. Clients are disqualified for periods of one year for the first IPV, two years for the second IPV, lifetime disqualification for the third IPV, and ten years for a concurrent receipt of benefits. BAM 720. This is the respondent's first intentional program violation.

In this case, the department was put on notice of Respondent's new employment when she submitted an application for CDC and listed [REDACTED] as her employer. In the CDC application, Respondent listed her employment at [REDACTED] as beginning July 8, 2005, but the Verification of Employment form completed by her employer showed Respondent's actual start date was April 27, 2005. Therefore, the Administrative Law Judge finds there is clear and convincing evidence that Respondent intentionally failed to report that she had started working on April 27, 2005. Respondent's signature on the Assistance Application certifies that she was aware that fraudulent participation in FAP and FIP could result in criminal or civil or administrative claims. Because of Respondent's failure to report that she was working while receiving FAP and FIP benefits, she received an overissuance and the department is entitled to recoup \$2,106.00.

Claimant testified that she believes she telephoned her case worker and reported her income. Claimant also testified that she had a lot of problems with the case worker during this time period. When Respondent was asked if she turned in her paystubs, Respondent replied that she believed so. However, Respondent failed to submit clear and convincing evidence that she had notified the department of her employment.

**DECISION AND ORDER**

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that Respondent committed an Intentional Program Violation by failing to report that she was working while receiving benefits for the period of time from June 1, 2005 to August 31, 2005 for FAP and May 1, 2005 to August 31, 2005 for FIP.

Therefore, it is ordered that:

1. Respondent shall be personally disqualified from participation in the FAP and FIP program for one year, but the rest of the household may participate. This disqualification period shall begin to run immediately as of the date of this order.
2. The department is entitled to recoup the overissuance of benefits Respondent ineligibly received. Respondent is ORDERED to reimburse the department for the \$2,106.00 FAP and FIP overissuance caused by her intentional program violation.

It is SO ORDERED.

/s/

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Vicki L. Armstrong  
Administrative Law Judge  
for Ismael Ahmed, Director  
Department of Human Services

Date Signed: December 20, 2010

Date Mailed: December 20, 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.

VLA 

cc: 