

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.: 2010-46319  
Issue No.: 3055  
Case No.: [REDACTED]  
Load No.: [REDACTED]  
Hearing Date: November 3, 2010  
DHS County: Wayne (41)

**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 MCL 400.37 and on the Department of Human Services' (DHS) request for a hearing. After due notice, a telephone hearing was held on November 3, 2010. Respondent did not appear. [REDACTED], appeared and testified on behalf of DHS.

**ISSUE**

Did Respondent commit an Intentional Program Violation (IPV) of the Food Assistance Program (FAP)?

**FINDINGS OF FACT**

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

1. On or about March 27, 2006, Respondent signed an application for FAP benefits with DHS.
2. By signing the application, Respondent acknowledged receipt of the Acknowledgments, which provided additional information about receipt of benefits.
3. On April 20, 2006, DHS awarded FAP benefits to Claimant beginning May 1, 2006. The Eligibility Notice contained the following instruction in capital letters:

“PLEASE REPORT ANY CHANGES IN INCOME/  
EMPLOYMENT/SHELTER/HOUSEHOLD MEMBERS; (SIC)  
TO YOUR DHS CASE WORKER WITHIN 10 DAYS.”

4. From June 9-September 14, 2006, Respondent held temporary employment with [REDACTED].
5. From October 16, 2006-January 26, 2007, Respondent received child support income for her three children.
6. On or before December 31, 2006, Respondent returned to work at [REDACTED]. Her first paycheck was dated December 31, 2006.
7. Respondent failed to report her wages and child support income to DHS.
8. Due to Respondent's failure to report earned and unearned income, she received a \$1,704 FAP overissuance (OI) from July 1, 2006-January 31, 2007.
9. On May 19, 2010, DHS requested repayment of \$1,704 from Respondent. Respondent failed to sign the DHS Repayment Agreement.
10. This is DHS' first allegation of IPV against Respondent.

#### **CONCLUSIONS OF LAW**

FAP was established by the U.S. Food Stamp Act of 1977 and is implemented by Federal regulations found in Title 7 of the Code of Federal Regulations. DHS administers FAP pursuant to MCL 400.10 *et seq.* and Michigan Administrative Code Rules 400.3001-400.3015. DHS' FAP policies and procedures are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT), which are online at [www.mich.gov](http://www.mich.gov).

In this case, DHS has requested a finding of an IPV and, in the event that the Administrative Law Judge makes that finding, DHS asks that Respondent be disqualified from receiving benefits. DHS requests the Administrative Law Judge to order the penalty for a first offense in this case.

The applicable manual section in this case is BAM 720, "Intentional Program Violation," which was updated on May 1, 2010, and is seventeen pages long. The definition of an IPV is set forth on page 1:

Suspected IPV means an OI exists for which all three of the 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 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. IPV is suspected when there is clear and convincing evidence that the client or CDC [Child Development and Care] provider has intentionally withheld or misrepresented information for the purpose of establishing, maintaining, increasing or preventing reduction of program benefits or eligibility. BAM 720, p. 1.

I conclude that there is clear and convincing evidence to establish that Respondent committed a FAP IPV. Although Respondent was aware of her reporting responsibilities, she intentionally failed to report earned and unearned income to DHS. This information was necessary in order to determine her eligibility for program benefits. There is no evidence in the record of any justifiable reason for Respondent's failure to report her income.

### **DECISION AND ORDER**

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that Respondent committed a first-time FAP IPV. Accordingly, the Administrative Law Judge ORDERS that:

1. Respondent is personally ineligible to participate in FAP for twelve months. This disqualification period shall be applied immediately.

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2. DHS may seek recoupment of FAP benefits, which Respondent received in violation of the income reporting requirements of DHS policies and procedures, in the amount of \$1,704.

IT IS SO ORDERED.



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

Date Signed: November 8, 2010

Date Mailed: November 9, 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.

JL/pf

cc:

