

STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg. No: 2010-46326

Issue No: 3055; 1052

[REDACTED]

Berrien 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 June 28, 2011, at which Respondent did not appear. This matter having been initiated by the department and due notice having been provided to Respondent, the hearing was held in Respondent's absence in accordance with Bridges Administrative Manual, Item 725.

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 November 15, 1994 and May 19, 1995, 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 Exhibits 12-49; 50-87).

3. On December 17, 1994, the department received an Unemployment Compensation Benefits (UCB) Match showing Respondent was receiving unemployment benefits. Respondent did not report this income to the department. (Department Exhibit 88).
4. On February 3, 1995, the department received verification from the unemployment commission that Respondent had been receiving unemployment benefits since November 13, 1994. (Department Exhibit 89).
5. On October 24, 1995, the department received a Quarterly Wage Match showing Respondent was employed by [REDACTED]. (Department Exhibit 90).
6. On November 14, 1995, Respondent submitted a Monthly Eligibility and Income Report, listing herself as self-employed providing daycare. (Department Exhibits 98-99).
7. On December 11, 1995, Respondent submitted a Monthly Eligibility and Income Report, listing herself as self-employed. (Department Exhibits 100-101).
8. On December 29, 1995, the department received verification of employment from [REDACTED] showing Respondent's employment began on May 6, 1995 and ended on July 2, 1995. This income was not reported to the department. (Department Exhibits 91-93).
9. On January 10, 1996, Respondent submitted a Monthly Eligibility and Income Report, reporting she was employed at Atlantic Auto Motor, earning [REDACTED] an hour. (Department Exhibits 102-103).
10. On April 9, 1996, Respondent submitted a Monthly Eligibility and Income Report, reporting no income. (Department Exhibits 106-107).
11. On May 9, 1996, the department received a Quarterly Wage Match showing Respondent was employed by [REDACTED]. This income was not reported to the department. (Department Exhibit 94).
12. On June 10, 1996, the department received a Verification of Employment from [REDACTED] showing she was working and had been employed since March 23, 1996. (Department Exhibit 104-105).
13. On June 12, 1996, the department received a Verification of Employment showing Respondent was employed by [REDACTED] Employment from October 20, 1995 until she was fired on January 12, 1996. (Department Exhibits 95-97).

14. Respondent received [REDACTED] in FAP benefits and [REDACTED] in FIP benefits during the alleged fraud period of February 2005 through May, 2006. If the income had been properly reported and budgeted by the department, Respondent would only have been eligible to receive [REDACTED] in FAP benefits and [REDACTED] in FIP benefits. (Department Exhibits 9, 108-120, 121-150).
15. Respondent failed to report her income in a timely manner, resulting in a FAP overissuance for the months of February 2005 through May, 2006, in the amount of [REDACTED] and a FIP overissuance of [REDACTED]. (Department Exhibit 9, 108-120, 121-150).
16. Respondent was clearly instructed and fully aware of the responsibility to report all employment and income to the department.
17. Respondent has no apparent physical or mental impairment that would limit the understanding or ability to fulfill the income reporting responsibilities.
18. Respondent had not committed any previous intentional program violations of the FAP or FIP programs. (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 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 FIP program replaced the Aid to Dependent Children (ADC) program effective October 1, 1996. The Department of Human Services (DHS or department) administers the FAP and FIP programs pursuant to MCL 400.10, *et seq.*, and MAC R 400.3001-3015 and MAC R 400.3101-3131 respectively. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

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 has established that Respondent was aware of the responsibility to report all income and employment to the department. Respondent completed an application for assistance on November 15, 1994 and May 19, 1995. Information received from an unemployment compensation benefits match on February 3, 1995, showed Respondent began receiving unemployment benefits on November 13, 1994. However, Respondent failed to report the unearned income on her November 15, 1994 assistance application.

On October 24, 1995, the department received a Quarterly Wage Match showing Respondent was employed at [REDACTED] [REDACTED] May 6, 1995 through July 2, 1995. Respondent did not report her earned income from [REDACTED] on her May 19, 1995 assistance application.

On May 9, 1996, the department received a Quarterly Wage Match showing Respondent was employed at [REDACTED] Employment. A Verification of Employment showed Respondent was employed from October 20, 1995 until January 12, 1996. This income was not reported to the department.

Respondent's signature on the assistance applications dated November 15, 1994 and May 19, 1995, certifies that she was aware that fraudulent participation in FAP and FIP could result in criminal or civil or administrative claims. This Administrative Law Judge therefore concludes that the department has shown, by clear and convincing evidence, that Respondent committed a first intentional violation of the FAP program, resulting in a [REDACTED] overissuance from February 1995 through May, 1996 and a first intentional violation of the FIP program, resulting in a [REDACTED] overissuance. Consequently, the department's request for FAP and FIP program disqualification and full restitution must be granted.

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 of the FAP and FIP programs by failing to report that she was receiving unemployment benefits and working while receiving benefits for the period of time from February 1995 through May, 1996.

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 [REDACTED] FAP overissuance and [REDACTED] FIP overissuance for a total of [REDACTED], caused by her intentional program violations.

It is SO ORDERED.

_____/s/_____
Vicki L. Armstrong
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: 6/29/11

Date Mailed: 6/29/11

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/ds

[REDACTED]