

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.: 2010-46699
Issue Nos.: 1052, 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 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 Intentional Program Violations (IPVs) of the Family Independence Program (FIP) and 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 January 23 and January 27, 2003, Respondent signed an application for FIP and FAP benefits. Her signature appears immediately after this printed statement:

IMPORTANT: YOU MUST SIGN THE APPLICATION
I certify that I have received and reviewed a copy of the Acknowledgments, that explains additional information about applying and receiving assistance benefits.
Department Exhibit 1, p. 22 (bold print in original).

2. On January 27, 2003, DHS awarded FIP and FAP benefits to Respondent, beginning February 1, 2003.

3. From May 1, 2003-January 31, 2004, and other times not relevant to this proceeding, Respondent was employed at [REDACTED].
4. Respondent did not report her earned income to DHS.
5. Respondent received FIP overissuances (OIs) of \$5,070 and FAP OIs of \$4,031.
6. Respondent is entitled to a credit for child support payments of \$1,342 forwarded to DHS, leaving the total OI at \$7,759.
7. On May 20, 2010, DHS sent Respondent a Repayment Agreement and requested her signature. Respondent failed to sign the Repayment Agreement.
8. On October 1, 2010, DHS sent a hearing notice to Respondent notifying her of the November 3, 2010 hearing.

CONCLUSIONS OF LAW

FIP was established by the U.S. Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 8 United States Code Sec. 601 *et seq.* DHS administers FIP pursuant to MCL 400.10 *et seq.*, and Michigan Administrative Code Rules (MACR) 400.3101-400.3131. DHS' FIP policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT). These manuals are available online at www.michigan.gov/dhs-manuals.

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 MACR 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). *Id.*

In this case, DHS has requested findings of IPVs in the FIP and FAP programs and, in the event that the Administrative Law Judge makes these findings, DHS asks that Respondent be disqualified from receiving benefits. DHS requests penalties for a FIP first-time offense and a FAP second-time offense in this case.

The applicable manual section in this case is BAM 720, "Intentional Program Violation." 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 have examined all of the evidence and testimony in this case. I find that Respondent was awarded benefits in 2003 and was fully knowledgeable of her reporting responsibilities. Respondent received the Acknowledgments materials at the time she signed the DHS application, and this is established by her signature on the application.

I further find that Respondent failed to report income to DHS in violation of her responsibility to report changes in income within ten days of the change. I find that Respondent, by her failure to report income, committed two IPV's. DHS' request for a finding of IPV's of FIP and FAP are GRANTED.

I next turn to the penalties DHS has requested in this case, which are a first-time penalty for IPV of FIP, and a second-time penalty for IPV of FAP. I find that the record does establish that first-time penalties are appropriate in both FIP and FAP. However, DHS provided no documentation at the hearing to establish that Respondent committed a previous first-time IPV in FAP. As I find nothing in the record to establish that a severer, second-time penalty is appropriate for FAP, I DENY DHS' request for a second-offense penalty against Respondent for the FAP IPV in this case.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, GRANTS DHS' request for findings of IPV's of FIP and FAP. I further ORDER that the penalties for the violations shall be penalties for first-time IPV's with regard to both programs. DHS' request for a second-offense penalty for FAP is DENIED.

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It is further ORDERED that DHS is entitled to recoup \$7,759 from Respondent, based on FIP OI of \$5,070, FAP OI of \$4,031, and a credit to Respondent for child support reimbursements to DHS of \$1,342. DHS may proceed in accordance with all policies and procedures.



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:

