

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201047631

Issue No: 3055

[REDACTED] [REDACTED]
Hearing Date August 22, 2011
Genesee County DHS

ADMINISTRATIVE LAW JUDGE: Kandra K. Robbins

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37, 7 CFR 273.16, MAC R 400.3130, and MAC R 400.3178 upon the Department of Human Services (department) request for a disqualification hearing. After due notice, a telephone hearing was held on August 22, 2011. Respondent did not appear at the hearing and it was held in respondent's absence pursuant to 7 CFR 273.16(e), MAC R 400.3130(5), or MAC R 400.3187(5). The mail sent to the Respondent was returned as undeliverable.

ISSUE

Whether the respondent committed an Intentional Program Violation (IPV) of the Food Assistance Program (FAP) and whether the 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 the respondent as a result of the respondent having committed an Intentional Program Violation (IPV); the OIG also requested that the respondent be disqualified from receiving program benefits.
2. Respondent signed Assistance Application (DHS-1171) on February 26, 2009 and again on March 9, 2009, 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, pages 7-22).

3. Respondent reported that she intended to stay in Michigan on the application. (Department Exhibit 1, pages 7-22).
4. The Respondent began making EBT FAP purchases outside of the State of Michigan beginning in June 2009. (Department Exhibit 1, pages 24-93).
5. The Office of Inspector General indicates that the time period they are considering the fraud period is June 1, 2009 through March 31, 2010. (Department Exhibit 1, pg 95-96).
6. During the alleged fraud period, the respondent was issued [REDACTED] in FAP benefits from the State of Michigan (Department Exhibit 1, page 2).
7. The Respondent was issued food stamp benefits in [REDACTED] from November 1, 2009 through March 31, 2010 and from [REDACTED] for the time period of December 2009 through March 31, 2010. (Department Exhibit 1, pg. 94).
8. Respondent was clearly instructed and fully aware of her responsibility to report any changes in residency to the department.
9. Respondent was physically and mentally capable of performing her reporting responsibilities.
10. Respondent has not committed any previous intentional FAP program violations.
11. A Notice of Disqualification Hearing was mailed to the respondent at the last known address and was returned by the U.S. Post Office as undeliverable. Respondent's last known address is: [REDACTED]

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), Reference Table Manual (RFT), State Emergency Relief Manual (ERM) 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 overissuance 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 overissuance 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 respondent intentionally failed to report that she moved from the State of Michigan. Respondent's signature on this document certifies that she was aware that fraudulent participation in FAP could result in criminal or civil or administrative claims. Respondent has no apparent physical or mental impairment that limits the understanding or ability to fulfill the reporting responsibilities. Because of Respondent's failure to report her change of residency, she received an overissuance and the department is entitled to recoup [REDACTED]

Respondent received FAP benefits beginning in March 2009 from the State of Michigan. In November 2009, she also began receiving food stamp benefits from the State of [REDACTED]. In December 2009, she began receiving food stamp benefits from the State of [REDACTED]

The benefits issued during this period were in error as the Respondent was not a resident of Michigan. The Respondent would not have been eligible to receive benefits if she had reported this fact.

Policy prohibits any individual from receiving food benefits in two states at the same time. Based on clear and convincing evidence, it is found that Respondent intentionally failed to inform the department that she was receiving program benefits from the State of Michigan at the time she applied and received benefits from the State of [REDACTED] and the State of [REDACTED].

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.

Based on clear and convincing evidence, it is found that the Respondent intentionally committed the program violation as she applied to receive benefits from the State of [REDACTED] and the State of [REDACTED] while she was already receiving benefits from the State of Michigan. Consequently, the department's request for FAP disqualification and full restitution must be granted.

DECISION AND ORDER

The Administrative Law Judge, based upon the clear and convincing evidence, decides respondent committed a first intentional FAP program violation. The Respondent committed this violation in order to receive multiple FAP benefits from three different states simultaneously.

Therefore it is ORDERED that:

1. Respondent shall be personally disqualified from participation in the FAP program for 10 years. This disqualification period shall begin to run immediately as of the date of this Order.
2. Respondent is responsible for full restitution of the [REDACTED] FAP overissuance caused by her Intentional Program Violation (IPV).

/s/ _____
Kandra K. Robbins
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: August 26, 2011

Date Mailed: August 29, 2011

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.

KKR/db

cc:

[REDACTED]