

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

IN THE MATTER OF:

[REDACTED]

Grand Blanc, MI 48439

Reg. No: 2010-49878

Issue No: 1052, 3055

[REDACTED]

Genesee County DHS-06

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

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's") request for a disqualification hearing. After due notice, a telephone hearing was held on August 17, 2011. Respondent personally appeared and provided testimony and the Department was represented by the Office of the Inspector General (OIG).

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 an Assistance Application (DHS-1171) on February 4, 2004, 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 24-27).

3. On February 9 and 18 of 2004, Respondent received \$163.50 in two separate child support payments. (Department Exhibits 20-22).
4. Respondent received [REDACTED] child support payments on March 5 and 18, 2004. (Department Exhibits 20-22).
5. Respondent received [REDACTED]0 in child support payments on April 5, 15, and 29, 2004. (Department Exhibits 20-22).
6. Respondent received [REDACTED] in child support payments on May 13 and 27, 2004. (Department Exhibits 20-22).
7. On June 10, 2004, Respondent received a child support payment in the amount of [REDACTED]. (Department Exhibits 20-22).
8. Respondent received child support payments in the amount of [REDACTED] on December 24 and 31, 2004. (Department Exhibits 20-22).
9. Respondent received [REDACTED] in child support on January 7, 13, 20, and 28, 2005. (Department Exhibits 20-22).
10. Respondent received [REDACTED] in child support on February 11, 17, and 24, 2005. (Department Exhibits 20-22).
11. On March 3 and 10, 2005, Respondent collected [REDACTED] in child support. (Department Exhibits 20-22).
12. Respondent did not report to the Department that she had been collecting child support between February, 2004 and March, 2005.
13. On March 18, 2005, the Department discovered that Respondent had been collecting child support during an investigation. (Department Exhibit 4).
14. Respondent received FIP benefits in the amount of [REDACTED] during the alleged fraud period of April 1, 2004 through June 30, 2004. Respondent also received FAP benefits from April 1, 2004 through June 30, 2004 in the amount of [REDACTED] and [REDACTED] from February 1, 2005 through February 28, 2005. If the income had been properly reported and budgeted by the department, Respondent would not have been eligible to receive FIP benefits and would only have been eligible to receive [REDACTED] in FAP benefits between April, 2004 and June, 2004. (Department Exhibits 3-16).
15. Respondent failed to report that she had been receiving child support income in a timely manner, resulting in a [REDACTED] FIP overissuance and a [REDACTED] FAP overissuance for the months of April, 2004 through June, 2004. Respondent also received a [REDACTED] FAP overissuance during the month of February, 2005. (Department Exhibits 3-16).

16. Respondent was clearly instructed and fully aware of the responsibility to timely report all 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 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 of the FIP and FAP programs.

In this case, the department has established that Respondent was aware of the responsibility to report all income to the department. Department policy requires clients to report any change in circumstances that will affect eligibility or benefit amount within 10 (ten) days. BAM 105. During the hearing, Respondent and Respondent's mother both testified that Respondent had been under stress during the time period at issue. Respondent stated that she had been diagnosed with depression and anxiety due, in part, to Respondent's daughter having been diagnosed with an eating disorder.

However, Respondent admitted during the hearing that she did not have any apparent physical or mental impairment that limited her understanding or ability to fulfill the reporting responsibilities.

Respondent failed to report to the Department that she had been receiving child support income from February, 2004 through March, 2005. On March 18, 2005, the Department discovered that Respondent had been collecting child support during an investigation. Respondent's failure to report this income resulted in a [REDACTED] FIP overissuance and a [REDACTED] FAP overissuance for the months of April, 2004 through June, 2004. Respondent's failure to report child support also resulted in an overissuance of FAP benefits of [REDACTED] during the month of February, 2005. This Administrative Law Judge finds that Respondent did not report that had been collecting child support income during this time period.

Respondent failed to indicate on the February 4, 2004 Assistance Application that she had been receiving, or expected to receive, any child support income. Policy requires that benefits recipients report changes in income to the Department within 10 (ten) days. Respondent failed to do so. Moreover, Respondent's signature on the Assistance Application certifies that she was aware that fraudulent participation in FIP and FAP could result in criminal or civil or administrative claims. She was also aware that the Department could seek reimbursement for overissuances.

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 FIP and FAP programs, resulting in a [REDACTED] overissuance in FIP from April 2004 through June 2004 as well as a first intentional violation of the FAP program resulting in a \$ [REDACTED] overissuance from April 2004 through June 2004 and a [REDACTED] overissuance in February, 2005. Consequently, the department's request for FIP and FAP 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 by failing to report that she had collected child support income while she was receiving FIP and FAP benefits for the period of time from April 2004 through February 2005.

Therefore, it is ordered that:

1. Respondent shall be personally disqualified from participation in the FIP and FAP programs 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] FIP overissuance and [REDACTED] FAP overissuances for a total of [REDACTED] caused by her intentional program violations.

It is SO ORDERED.

/s/

C. Adam Purnell
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: 8/26/11

Date Mailed: 8/29/11

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.

CAP/ds

